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Cover Picture

On the walls of the Institute of Government in Chapel Hill is a series of murals depicting North Carolina scenes. The theme of this series is our State —massed mountains and rushing streams in the Blue Ridge, sand dunes and placid waters on the coastal plains, its water power, its money crops, its trees and rocks, and its people. These pictures, chosen by Gladys Hall Coates from the work of Mrs. Bayard Wootten, add to the dignity and meaning of the Institute building and give pleasure to those who visit it. The vision of Mrs. Coates in selecting the pictures and the photographic genius of Mrs. Wootten have combined to produce flawless enlargements that sketch the simplicity and grandeur of North Carolina on the walls of the Institute.

Popular Government has selected the pictures of this series for its cover for this and forthcoming issues.

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Public Bills that Failed

The Grist that Didn't Grind

If you should journey down to Raleigh as a member of the General Assembly, carrying in your pocket nine public bills which your constituents had suggested as being fine measures for the better government of the State, how many of them could you reasonably expect to see enacted into law? Much would of course depend upon the timeliness and worth of the proposed legislation, as well as upon the amount of support and cooperation you were able to secure from other legislators; but if you were an average legislator and the bills were average bills, about three of them would probably never be introduced for one reason or another. Of the remaining six which you would introduce, you would see four of your public bills emerge and take their places as a part of the law of the land, although some would be amended, or altered by committee substitutes, almost beyond recognition. Two would fall by the way-side. At least, that is about the proportion of failures among public bills* introduced in the 1943 Legislature. Out of 445 of such bills introduced, 290, or 65.4%, ultimately became law, while 155, or 34.6% died a-borning.

To get a bill through the General Assembly, the personal attention of someone who wants to see the bill become law is required. It is not enough to dump a bill into the legislative hopper and then leave it to its own devices. If its father doesn't look after it, the chances are that no one else will, because other legislators have children of their own to bring up. And there are many traps into which the unwary, unprotected little bill might fall, even if it is a good little bill and deserves the right to grow up into a fine law. Either through neglect the budding law may wither and die, or through an intentional onslaught of its foes, be crushed out of existence, or be so maimed and crippled that resort to euthanasia would be justifiable.

Nor does the law against double jeopardy apply to bills; they may skillfully avoid all of the pitfalls and cunning traps laid for them in one House, fend off all attacks and come through unscathed, only to find exactly the same trials and ordeals in the other House. In either House the bill may be referred to a committee and then be forgotten. Or it may be reported unfavorably and be placed on the unfavorable calendar—a near-graveyard from which bills can be rescued only by use of great strength. Or the bill may be reported favorably and then fail to pass its second or third reading. Or it may fall victim to a successful motion "that the bill do lie upon the table"—oblivion in the vast majority of cases. And all

* "Public bills" as used herein are those bills having a general state-wide application, and not those bills which, while technically affecting the public laws, have a purely local effect.

Governor J. Melville Broughton addresses a joint session of the General Assembly, meeting in the House chamber. The gentlemen seated in the aisles are Senators. The Governor is flanked by R. L. Harris, Lieutenant Governor and President of the Senate, and John Kerr, Jr., Speaker of the House.

along the line, in both Houses, the bill is subject to amendments which may cut out its very heart, leaving it with little force or vitality.

Sometimes the temper of a Legislature and the trend of legislation can be judged as well by the bills that were offered but rejected, as by a study of the bills that were passed. Hence this brief analysis and review of bills that failed.

The high percentage of failures among public bills was due to many causes. Some were introduced too late in the session to receive adequate consideration and were too important, although not vital, to be enacted without a careful study and an opportunity for interested parties to be heard by the committees to which they were referred. Some had sponsors who were not greatly concerned with their fate, and so died premature deaths from neglect and malnutrition. Some fundamentally sound bills generated so much controversy over minor and unimportant features that they were administered the coup de grace to end their suffering. Some were fundamentally of such a controversial nature that their futures were already behind them when the Legislature opened its sessions. And some were so misbegotten and ill-conceived that nothing better than a still-birth could be expected.

A classification of these bills that failed is here attempted; but a logical classification is difficult. Some bills can find no places, in a brief review such as this, except under "miscellaneous," and even that catch-all must be stretched somewhat to embrace some of the legislative gems.

Bills Affecting the Office of the Clerk of the Superior Court

An extremely high mortality rate —about 65%—prevailed as to bills affecting the Office of the Clerk of Superior Court. Many of these bills were concerned with changes in the law of the administration of estates, and one strong argument that was used against their enactment was that many of the laws, such as the time within which claims against decedent's estates must be filed, are well known to lawyer and layman alike; that at the present time the attention of the people is centered on national and world affairs and such changes might escape their notice and result in a loss to them; and that there is no urgent need for the changes and that in the absence of such urgency the well-known rules should not be altered while so many distracting events are taking place.

Bills affecting the administration of estates were drawn to:

(1) Reduce the time for filing claims against decedent's estates from within 12 months to within 6 months after publication of the first notice and reduce the time of publication from 6 weeks to 4 weeks.

(2) Reduce the statute of limitations on actions by a creditor against a decedent's representative upon claims rejected by the representative from 12 months to 6 months.

(3) Discharge the representative from liability as to assets disbursed if the claim is not presented within 6 months, rather than 12.

(4) Reduce the time for filing claims against a decedent's estate from 6 months to 90 days where the creditor is personally served.

(5) Permit the clerk to compel a guardian to file his annual account within 10 days, rather than 20 days, from the date of the order to do so.

(6) Permit the clerk to compel executors, administrators, collectors and trustees under wills to file annual accounts within 10 days, rather than 20 days, from the date of the order to do so.

(7) Reduce the time for executors, administrators and collectors to file delinquent inventories and accounts of sales from 20 to 10 days after the order of the clerk.

(8) Make C.S. 109 read (by inserting the underlined words): ing the italicized words): "An executor or administrator may be required to file his final account for settlement in the office of the clerk of the superior court by a citation directed to him, at any time after two years from his qualification at the instance of any person interested in the estate, but such account may be filed voluntarily at any time *after the elapse of twelve months from the first publication of notice to creditors;* and, whether the accounting be voluntary or compulsory, it shall be audited and recorded by the clerk."

(9) Regulate the reopening of fiduciaries' sales of real estate by requiring a minimum increase bid of $20; 10% increase where the sale price was $200 to $500; and where the sale price was over $500, require an increase of 10% on the first $500 and 5% on the excess.

(10) Strike out subsection 3 of C.S. 6 which provides that the most competent creditor residing in the State may qualify as administrator of an intestate unless application is made by the widow, widower or next of kin.

(11) Authorize joint control agreements between principals and sureties on fiduciaries' bonds.

(12) Amend C.S. 2285 to permit the clerk to name a "trustee" rather than a "guardian" for an insane person over 21 years of age. The clerk could no longer designate the guardian for a person with a lack of mental capacity because of old age or physical infirmities a "trustee."

(13) Rewrite the law with respect to investment by the clerks of superior courts to leave out investments secured by real estate and to provide expressly against liability for losses on the part of clerks who exercise reasonable care and good faith in investing in the securities enumerated.

(14) Provide a method for changing the accounting system in the offices of the Superior Court Clerks.

(15) Permit clerks to add 10c in each bill of costs to be retained in addition to their salary or other compensation to compensate them for making statistical reports to the department of justice.

(16) Require the clerks to prorate Federal estate taxes among the beneficiaries of the estate in accordance with the value of the property each receives.

(17) Amend C.S. 4142 to require the clerk to file the affidavit which

accompanies the application for letters testamentary, and also validate the probate of wills where the clerk has failed to obtain and record the affidavit.

Labor and Trade Practices

There were three interesting bills relating to labor and trade practices. The first was an anti-picketing bill, the second was the "Employment Peace Act," and the third was a bill "to prohibit unfair trade practices in merchandising." All were introduced in the House and none were reported out of committee.

The first bill, "making unlawful the use of force or violence or threats thereof to prevent or attempt to prevent any person from engaging in any lawful vocation," would have made it illegal for any person, acting in concert with one or more other persons, to assemble near any place where any "labor dispute" exists, and by force or violence to attempt to prevent any person from engaging in any lawful vocation, or to obstruct or interfere with the free use of roads, ways, or approaches to places of employment. A violation would have been a felony, punishable by confinement of not less than one nor more than two years in the State penitentiary.

The "Employment Peace Act" was a lengthy bill (23 pages) upon which a good deal of thought had apparently been put. It would have repealed Ch. 362, Public Laws of 1941 which provides for a labor conciliation service in the Department of Labor with no more power than whatever power of persuasion it has, and it would have set up a Division of Conciliation in the Department of Labor with real powers and duties. "Unfair labor practices" on the part of both employers and employees were defined and made illegal, subject to injunctive relief. A cooling off period was provided, during which efforts were to be made for a settlement. If the dispute involved a business affected with a public interest or concerned with the necessities of life, safety or health, the Governor would have been authorized to appoint a special commission of three members, representing employer, employees and the public, to conduct hearings.

The unfair trade practices bill was

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apparently aimed at such objects as company commissaries and "manufacturers outlets." It would have made it illegal for any business to sell, directly or indirectly, or have in its possession for sale to its employees, any article not produced by it or not handled by it in its regular course of business, except meals, candies, etc., or tools used by the employees in their work, or health or safety appliances. It would also have made it illegal for retailers to represent that they are other than a retail outlet, or that their quoted price is other than a retail price. Each violation would have been a separate offense, punishable by a fine of not less than $100 nor more than $500 for the first offense, and not less than $500 or more than $1,000 for the second offense.

Liquor, Beer and Wine

Besides the two score local bills on the subject of alcoholic beverages that failed to pass (a State-wide measure having taken care of most of them), several Public bills that also ran deserve some mention. Perhaps the most ambitious and hopeless of these was H.B. 291 which would have provided for a State-wide referendum in November, 1943, on the question of prohibiting the manufacture and sale of intoxicating beverages in the State. Had the proponents been successful in getting the bill through *and in carrying the election*, the various county ABC stores would have been closed and State-wide prohibition would again have been in effect. Although the proponents made a determined effort before the House Committee on Propositions and Grievances, the bill received an unfavorable report.

The 1941 Legislature left two spots in the State wine and beer laws which, with the development of huge military establishments in North Carolina and the crowding of defense workers into defense areas during the past two years, became the source of many headaches of law enforcement officers. The first was the failure to regulate or to provide for adequate local regulation of the Sunday and night sale of wine and beer, with the result that the juke joint with the red neon signs just outside of town did a flourishing business until 2, 3 or 4 o'clock every morning, especially Sunday morning, and the police or recorder's court did a flourishing business, especially on Monday morning. The 1943 Legislature did something about this situation by authorizing any county, with respect to the territory outside of incorporated places, and any municipality, with respect to the territory within its corporate limits, to prohibit the sale of wine and beer after 11:30 P.M. every day and all day Sunday. They may also prohibit drinking on the premises after midnight, so that a contention that the drinks were bought before the 11:30 deadline is of no avail.

The second sore spot was the failure to effectively regulate the character and quality of the wine to be sold, so that there was room in the law for the sale of synthetic or "fortified" wines. Some of such "wines" are said to be nothing more than water, artificially colored and flavored, and spiked with grain alcohol. When consumed in quantity, its effect is said to be somewhat akin to that of loco weed on a horse. It is reliably reported to furnish the background for many a surgeon's stitch. About this situation the Legislature did nothing. The bill (H.B. 144) which its proponents claimed would have provided a large measure of reform, after a hard but successful fight in the House, was quietly tabled in the Senate. The bill would have created a Wine Control Division in the Department of Revenue; prescribed "standards of identity" and set up labelling requirements; defined legal types of wines and required revocable permits of all handlers. The opposition was chiefly on the grounds that the bill created a new job at a large salary (originally $6,600 per year) and would legalize "dessert" wines (such

as muscatel and sherry) with an alcoholic content of 20% by volume. There also may have been the thought among some drys that the bill might give some dignity and standing to wine and thereby help entrench the "liquor interests."

"A bill to be entitled an Act to provide local self-government of beer and wine" was the caption of H.B. 523. It would have provided for county elections on the question of the sale of any alcoholic beverage having a higher alcoholic content than one-half of one per cent. It would have required the county board of elections of any county to call the election upon the written request of the county commissioners or upon a petition of 15% of the qualified voters of the county. An election could not be held more often than once in three years in any county. The bill received an unfavorable report by the House Committee on Finance.

Had H.R. 468 been adopted, three physicians and three judges or ex-judges might now be making a study of the medical and legal aspects of chronic alcoholism and preparing to make recommendations for its alleviation, at $7 per day plus necessary travel expenses. The Resolution which would have requested the Governor to appoint the commission was reported favorably by the House Committee on Health, but was re-referred to the Committee on Appropriations, where it remained for the remainder of the session.

Pensions and Retirement

There were so many bills introduced in the House with captions beginning: "A Bill to be entitled an Act to amend Chapter 25 of the Public Laws of 1941 creating a Teacher's and State Employee's Retirement System. . . ." that the Speaker suggested a new Committee to consider bills amending the State Retirement System should be set up. The suggestion was not seriously made, however, and it was probably the cumbersome titles to the bills that lent an impression of multiplicity; for the actual amendments were few and the few bills that failed to pass offered no fundamental changes.

The most important change offered by any of the bills that failed would have been wrought by H.B. 212, concerning the retirement of extension agents. These county extension agents are paid in part from State funds and in part from county funds. They now participate in the retirement system to the extent of the pay received from the State. The bill would have required the counties to make deductions on the portion of salaries paid by them at the same rate as the State deductions, and to remit such deductions, together with matching *contributions*, to the State Retirement System. The bill saw a great deal of action both in the committees and on the floor, was finally tabled after being nearly dragged to death by the weight of exempting amendments.

Other bills which failed to get by would have: given credit for prior service to any members who were in service prior to July 1, 1942, who were entitled to prior service and who were above 60 years of age at the date of the establishment of the system; extended benefits to persons who retired prior to January 1, 1941, because of total disability, and who had reached the age of 50 and had served as a public school teacher continuously for 25 years; and, would have removed the limitation on participation in benefits as to the part of salaries in excess of $3,000 per year.

Old Age Assistance and Aid to Dependent Children were subjects of two bills that fell short of ratification. The first, H.B. 708, would have made the minimum old age assistance award $15 per month or $180 per year, with a maximum of $30 per month or $360 per year, with the proviso that not more than $180 per year be paid to any recipient from county and state funds. The other, H.B. 770, would have imposed an ad valorem tax of 6c on the $100 valuation on all tangible property in the State for the benefit of the Old Age Assistance and Aid to Dependent Children Funds. Other eligibles would have been added to the list, and distribution would have been made equally, according to classifications. Both bills were reported unfavorably by committees.

Taxation

Some twenty bills would have made changes ranging from knocking out major sources of revenue to minor amendments to tax and related laws affecting the State and local units.

State revenues would have been affected by bills that would have abolished the sales tax in its entirety; abolished sales tax on prepared meals; allowed merchants a 5% commission for collecting and reporting the sales tax (the Revenue Act was amended to allow the retention of 3% of the tax by those making timely reports and remittances); suspended individual liability for income taxes for 1943 and 1944; and permitted the payment of income taxes in eight monthly installments. (The Revenue Act was amended to permit quarterly installments, effective January 1, 1944.) Other bills were aimed at placing a maximum fee of $500 for the issuance of certificates of incorporation; requiring the penalty for reinstatement of a corporate charter to be paid to the Commissioner of Revenue and by him transmitted to the Secretary of State; making employing units employing as few as six (instead of eight) persons subject to the Unemployment Compensation Law; making it a mandatory duty of the Commissioner of Revenue to prosecute a violation of the law respecting the gasoline tax, and repealing the requirement that claims for refunds be made within fifteen days after the close of each quarter; giving the Commissioner of Motor Vehicles a prior lien with respect to delinquent taxes and fees due him from contract and franchise haulers, whether recorded or not, superior to all recorded liens except other tax liens which would share pro rata; exempting registered leaf tobacco dealers who buy tobacco or scrap for redrying and repacking for sale at an established place of business from the privilege tax on tobacco and tobacco scrap buyers; adding 50c to fishing and hunting license fees, to be used in fish and game propagation and development; and exempting persons beyond the age of 65 from hunting and fishing license requirements.

Local taxation or tax collection would have been affected, in some instances substantially, by bills whose effect would have been to: (1) Make it mandatory for the tax collector to exhaust his remedies against personal property before proceeding to foreclose real estate. (2) Require a certificate showing that real estate described in a deed had been listed for taxes and the taxes thereon paid as a

condition precedent to the probate or registration of the deed. (3) Reduce the time for advertising tax sales from four to two weeks. (4) Authorize any taxing unit to accept deeds for taxes in lieu of resorting to foreclosure. (A number of local units were so authorized by local Acts.) (5) Make the schedule of ad valorem and poll tax penalties begin on January 2 instead of on February 2. (6) Authorize the commissioners of any county where the sheriff is acting as tax collector to appoint a tax collector and fix his salary.

A bill "to facilitate the collection of taxes for 1940 and prior years" would have prohibited any county from issuing any bonds or notes and from borrowing any money "for any purpose whatever" after June 30, 1945, unless such county had collected 50% of the principal amount of pol l and property taxes for 1940 and prior years which were liens on real property and were delinquent in January 1, 1942, or had collected enough, added to the amount of such taxes for which foreclosure proceedings had been instituted, to make 50% of the principal of such delinquent taxes. But bonds or notes might be issued if necessary to carry out an adjustment or refunding of the indebtedness of the county under a plan approved by the Local Government Commission if also approved by popular vote as provided in the County Finance Act. The House Finance Committee gave the bill an unfavorable report.

Sheriffs

Three Public Bills affecting sheriffs were left at the barrier: two concerned the sheriff's liability and the third concerned his jurisdiction in making arrests. One bill was an emergency war-time measure which originated in the Senate on January 21 and received considerable attention before being tabled in the House, after a favorable Committee report, on March 2. It would have relieved sheriffs of liability for the acts of special deputies, appointed on account of the war emergency, for the duration of the war and six months thereafter, unless the acts were committed in the presence of the sheriff and by his direction. The specific authority and territorial jurisdiction of the special emergency deputies were to be specified in writing, and they were to have no power beyond such specified authority and territory. They would not have been considered "employees" within the meaning of the Workmen's Compensation Act. Many sheriffs had been requested to deputize citizens to assist in enforcing black-out and air raid restrictions, and the bill would have permitted such appointments without making the sheriff unduly liable for injuries or damage such special deputies might cause. However, the good in the bill did not overcome the feeling of some legislators that the need was not pressing, and the fear of others that it might be used by sheriffs to build political machines.

C.S. 3930 requires the sheriff to give three bonds upon assuming the duties of his office: one, to cover the collection and settlement of State taxes; another, to cover the collection and settlement of county and local taxes; and the third, to cover the execution of process and executions, fees and money collected by virtue of his office, etc. H.B. 475 would have relieved the sheriff of the necessity of giving the first bond mentioned above. Reason: sheriffs no longer collect any state tax, except perhaps under execution on judgments which would be covered by the third type of bond. However, the Senate Committee reported the bill unfavorably. Probable reason: the matter would appear to take care of itself under the statute which sets the amount of the bond at "a sum not exceeding the amount of the taxes assessed upon the county for state purposes in the previous year."

S.B. 47 would have authorized sheriffs and other law enforcement officers to pursue beyond county lines and arrest persons who had committed breaches of the peace in their presence, so long as their prey was kept in sight. This bill went through the Senate in fine style, was favorably reported out of the House Committee, but was tabled about two weeks later. Some members apparently did not want officers of adjoining counties roaring down their highways in "hot pursuit" of petty offenders.

Another bill that would have affected sheriffs and other officers who serve civil process was H.B. 317, "to require officers serving civil process, subpoenas, notices, pleadings and other documents to furnish copies of their returns to the person for whom service is made." It would have required the officer to personally deliver or mail the copy within 24 hours after service.

State Departments, Institutions and Agencies

"A bill to be entitled an Act to repeal the Tax Research Department as contained in Chapter 327 Public Laws of 1941" was the revealing title to one bill which would have had a bearing upon State departments, institutions and agencies. This bill, like some twenty others in the same field, failed to get the legislative O.K.

Five bills would have made changes in the powers and duties of the Utilities Commission. S.B. 117 would have regulated hearings before the Commission and provided for appeals from its rules, regulations and decisions to the Superior Court. Appeals would have been on the record heard by the judge without a jury. The Commission's findings of fact would have been binding if supported by any substantial evidence. Certain rules of evidence, such as the authentication of records, would have been relaxed in hearings before the Commission. Other bills concerned with the Utilities Commission would have: provided that no rate, standard, etc. fixed by the Commission would have the effect of limiting the civil liability of any public utilities corporation for its negligence in rendering the services for which the rates or standards were fixed; sought "to clarify and make more definite the jurisdiction of the North Carolina Utilities Commission;" made a minor but apparently important change with respect to the rate making power of the Commission by making the pertinent provisions of the law (Ch. 365, P.L. 1939) apply to rates that are "changed" rather than "increased;" and, would have provided for appeals from municipal rates and regulations of city busses and taxis to the Utilities Commission.

Cosmetology and the Board of Cosmetic Art furnished considerable grain for the legislative mill, but much of it was blown out as chaff. Among other bills that fell by the wayside were: a bill to permit the State Board of Cosmetic Art Examiners to issue temporary apprentice licenses for the war's duration; a bill that would require registration of

cosmetologists and apprentices, set license fees, transfer records and control from the Board of Cosmetic Art Examiners to the State Board of Health; a bill to remove barbers and beauticians from the operation of the Unemployment Compensation Act; a bill to permit students taking training in schools to receive pay for their services, and to permit the issuance of certificates to persons who complete the prescribed course in a vocational school to be set up by the State Board of Health and approved by the Board of Cosmetic Art Examiners; and a bill to permit licensed cosmetologists to hire as assistants unlicensed persons who have practical experience, to work under their supervision.

Other bills bearing upon State departments institutions and agencies would have had the effect of: reorganizing the Library Commission (five unpaid members, one to be designated as chairman, to be appointed by the Governor for four year terms; the Commission would no longer elect its own officers annually); authorize the establishment of a voluntary payroll deduction plan for War Bond purchases; provide a per diem of $7 and travel expense for the members of the Commission appointed to study administrative agencies and procedure; make it unlawful to charge a fee of over 10% for collecting money or property held by the University under the escheat laws, except in litigated cases when the judge would set the fee of claimant's attorney; set up a State Aeronautics Commission to regulate aeronautics and airports in the State; set minimum salaries of members of the State Highway Patrol, ranging from $150 for patrolmen to $200 for sergeants, plus yearly increases; require all places selling auto license plates to remain open until midnight on December 31 (motorists will have all of January in which to buy plates under an amendment to the Motor Vehicle Law, which was adopted); exclude high school "learners" and apprentices approved by the Department of Labor under Ch. 229, P.L. 1939 from the definition of "employees" under the Unemployment Compensation Act; provide minimum fees for attorneys in Women's Compensation cases of not less than 15% on the first $500 of awards, 10% on the next $500, and 5% on the excess over $1,000; and, provide for the admission of a child into Caswell Training School without the consent of his parents or guardian upon an order of court after a hearing.

Courts and Related Matters

Two bills affecting justices of the peace were introduced on the sixth day of the session and were referred to proper committees wherein they languished for the remainder of the session. One would have submitted an amendment to the Constitution to empower the General Assembly to regulate the office of justice of the peace. In effect, if the amendment carried, the office would have become statutory rather than constitutional. The other bill would have put justices of the peace on salaries ranging from $300 to $4,800 per year in the discretion of the several boards of county commissioners, and would have provided for the appointment of two justices for each county, plus one more for each 20,000 of population, to be appointed by a committee composed of the judge of the Superior Court, the Clerk of the Superior Court, a member of the local bar, the chairman of the board of county commissioners, and the mayors of all of the towns in the county.

The *rule making power* of the Supreme Court as provided in C.S. 1421 and 1421(a) would have been greatly expanded and amplified if S.B. 105 had become law. It would have given the Supreme Court power to prescribe rules of practice and procedure, and the forms of all process, writs and pleadings in all proceedings in all inferior courts. An advisory commission, consisting of the Attorney General and ten additional members to be appointed by the joint action of the Governor, Lieutenant Governor and Speaker of the House, would have assisted the Court in formulating the rules, which would not have become effective until July 1 following the convening of the next ensuing General Assembly.

Judges would have been directly affected by two bills: one would have made them eligible to retire upon reaching the age of 65 after 12 years of service on either the Supreme or Superior bench. (He must now serve 15 years as a Superior Court judge or 12 years on the Supreme Court.) The other bill would have amended C.S. 566 to expressly relieve a judge of the duty of putting his charge to the jury in writing where the proceedings are taken down by a court reporter.

Solicitors probably would not have objected to the passage of H.B. 250, which would have raised their salary from $4,500 to $5,000 per year.

Attorneys probably would have opposed the passage of H.B. 813 if it had come up for debate. It was a bill "to repeal Chapter 177 of the Public Laws of 1941, relating to the practice of law by persons other than licensed attorneys." That Act is the one defining certain specific acts as the practice of law.

Women would have been affected by the passage of H.B. 573. Reciting in its preamble, "*whereas*, many states of this union have long permitted or required women to serve as jurors in the courts of such state; and *whereas*, it cannot be concluded that the women of other states are more capable of rendering jury service than are the women of North Carolina," the bill would have made women subject to jury duty. If it had become law, alterations would have been necessary in practically every courthouse in the State, or in the laws relative to keeping jurors together from the time the jury is impaneled until a verdict is rendered.

Witness tickets would have been excluded from the bill of costs unless filed within ten days after the judgment, if H.B. 566 had passed. The bill also would have dropped the limitation against charging in the bill of costs fees for more than two witnesses to a single fact.

The *domestic relations laws* of North Carolina would have been under the study of a special commission charged with making a report and recommendations to the next General Assembly, if S.B. 178 had been enacted. The bill, however, died in committee.

Criminal Law and Procedure

If five bills dealing with criminal law and procedure had become law, some substantial and startling changes would have been effected.

The bill of rights would have been partly rewritten and somewhat expanded under a bill "to guarantee to the people of North Carolina the right to be secure in their persons, homes, papers and effects against unreasonable searches and seizures; to fur-

ther guarantee to persons arrested the right to be informed of the nature and cause of the accusation, to have assistance of counsel, and to enjoy the right of a fair and impartial trial to the end that no person shall be deprived of life, liberty or property without due process of law." Among other things, it would have been a misdemeanor for any officer to search any dwelling while occupied as such without a search warrant issued under C.S. 4530(1), or to search any other building without a search warrant and without reasonable cause. Evidence obtained through any such illegal search would be inadmissible in any court of the state.

A constitutional amendment would have been submitted to permit criminal trials upon information that must now be prosecuted upon indictment by the grand jury. The grand jury would only meet when called together by the judge (not less than once each year), and would then investigate such specific offenses or conditions as the judge might designate.

The title of one bill, "to reduce the punishment for capital felonies from death to life imprisonment when recommended by the jury," accurately stated the object of one bill, while another would have changed the method of execution from asphyxiation by gas back to electrocution.

The fifth bill would have provided a method by which persons erroneously convicted and imprisoned might present their claims for pecuniary damages to the State. Such persons would file their claims with the State Treasurer who would give them hearings and receive proof. The Treasurer would then recommend to the next General Assembly the amount of damages the State should pay, if any. Recovery would be limited to $5,000 under the bill, but the next General Assembly could, of course, disregard the limitation or refuse to follow the recommendation of the Treasurer in any case or in any respect.

Register of Deeds, Registration and Related Matters

Three bills dealing with marriage licenses would have: required the issuance of licenses in duplicate, one copy to be turned over to the contracting parties and the other copy, to bear the signatures of two witnesses to the ceremony, to be returned; allowed the register of deeds to retain 5% when remitting for marriage license fees to the State; and require the person performing a marriage ceremony to return the license to the register of deeds within two days thereafter.

S. Ray Byerly, John W. McDevitt and Herman Scott are sworn in as Principal Clerk, Reading Clerk and Sergeant-at-arms of the Senate.

Mortgages and deeds of trust would have been affected by three bills: H.B. 268 would have made C.S. 2594(5) (presumption of satisfaction after 15 years from the due date) apply to mortgages and deeds of trust recorded prior to March 6, 1923; but holders of such instruments would have had one year within which to make an entry or file an affidavit showing the indebtedness still unsatisfied. H.B. 322 would have provided for making a marginal entry showing cancellation of any of a series of notes secured by a deed of trust or mortgage, so that upon final payment notes already shown to be paid would not have to be again exhibited. And H.B. 330 would have provided that mortgages on personal property created while the property was in another state would not constitute a lien after the removal of the property to this state, as to purchasers for value, without notice or proper registration in this state.

Other bills affecting deeds would have: abolished the privy examination of married women except as to contracts between husband and wife (with respect to the homestead, the requirement is constitutional—Art. X, sec. 8—but an Act of the 1943 General Assembly provides for the submission of an amendment on this question to popular vote at the next general election); required the indexing of instruments executed by fiduciaries, sheriffs, etc. to be indexed in the name of the owner as well as in the name of the fiduciary; extended the time for registering grants to 1944, by amending C.S. 7593.

Education

Among bills affecting education that were not read three times and ratified, one would have given teachers, principals and superintendents a 20% pay increase over the regular schedule, retroactive to January 1, 1943, another would have authorized the State Board of Education to make provision for sick leave with pay for teachers up to ten days a year, and another would have provided for an increase in the pay of adult school bus drivers to an amount not to exceed $25 per month.

The matter of injuries to school children in school bus accidents was the subject of H.B. 528, which would have provided a system for passing

on claims arising from the death or injury of the children by reason of such accidents. Claims would have been filed with the State Board of Education, which would have been authorized to acquire liability insurance or to become a self-insurer and set up a sufficient amount in its budget to cover estimated claims. Awards could have been appealed to the Superior Court upon questions of law.

The passage of the nine months school term act furnished background for the introduction of H.B. 857 which would have reduced local supplements in proportion as the supplement was used to pay for a ninth month for the local school. (The Attorney General has ruled that if the local supplement was voted only for the purpose of paying for a ninth month, and not for the ninth month and other school improvement, it could no longer be levied *under the old authorization* when the State takes over support of the ninth month.)

S.B. 72 would have denied enrollment to children who had not reached the age of six by October 1, instead of by December 31.

Principals would have been given two year terms under an amendment to the School Machinery Act offered by H.B. 578, but the bill failed to leave the committee.

Other bills that failed dealt with a provision for a library equalization fund, a nautical school commission, compulsory school attendance (requiring parents to give written, legal excuses for non-attendance of their children), vocational education, the prohibition against one person holding two educational board trusteeships, and prohibiting secret organizations among school children.

Uniform Laws

Five "uniform laws" were introduced in the Senate on the same day, and uniformly they failed to pass. The best progress of any of them was made by the "Uniform Simultaneous Death Act," which passed through the Senate, was sent to the House, but there died in committee. The descriptive part of the bills' captions will sufficiently indicate their subject matter:

S.B. 193—"Providing for the disposition of property where there is no sufficient evidence that persons have died other than simultaneously, and to make uniform the law with reference thereto."

S.B. 194—"Concerning composite reports as evidence and making uniform the law with reference thereto."

S.B. 195—"Concerning official reports as evidence and making uniform the law with reference thereto."

S.B. 196—"Concerning the judicial notice of the laws of other jurisdictions and concerning proof thereof and making uniform the law with reference thereto."

S.B. 197—"Concerning business records as evidence, and making uniform the law with reference thereto."

Miscellaneous

Some thirty bills are placed under the highly uninformative heading of "miscellaneous" for the reason that they relate to such diverse subjects and are so few as to any given subject that a more definite classification is impractical. About 13% of them originated in the Senate, about 87% in the House. Some covered a considerable part of the Legislative obstacle course before stumbling and falling out; others remained at the post until the race was over.

Election laws were the targets of three bills which would have prohibited absentee voting to any except members of the armed forces, would have done away with markers at primary and general elections except as to persons unable to mark their ballots by reason of physical disability, and would have repealed the requirement for keeping Democratic and Republican Primary books, the General Election Registration Books to serve in both the primaries and elections. All three bills were reported unfavorably by the House Committee.

County Commissioners' approval of appointments of county superintendents of public welfare, county health officers, and game protectors would have been required under S.B. 68 which, however, was reported unfavorably by the Senate Committee. S.B. 115 would have provided that all charges occasioned by the sickness, maintenance, cure and removal for *indigents*, both before and after death, be paid by the county wherein such indigent was last legally settled, and would have dropped the provision that the county wherein the services were rendered must pay if the county of legal settlement refuses to do so. This bill got through the Senate in good condition, was favorably reported by the House Committee, but was finally tabled on the next to the last day of the session.

County treasurers may be abolished in twenty-two counties and banks may be designated to act as treasurers by virtue of C.S. 1389, and several other counties were added to the list of counties having that authority by Local Acts adopted by the 1943 session. H.B. 500 would have made the Act apply to every county, but "unfavorable" was the report of the House Committee.

Livestock and poultry received attention in two bills. One was aimed at black markets and would have regulated the hours of sale to dealers, who would be required to keep records of their purchases. The other would have required operators of livestock markets to secure revocable permits from the Commissioner of Agriculture. The first bill was tabled, the second was reported unfavorably.

Timber protection was the object of H.B. 663, which was about as mild as any bill could be and still hope to accomplish anything toward a highly desirable result—the preservation of the state's timber resources and the arresting of the trend which is making our rivers muddy with the top soil of the state, even in the mountain counties. It would have made it unlawful to "clear cut" timber lands except with the bona fide intent of devoting the land to other uses. In lumbering operations it would have required a minimum number of seed trees or seedlings to be left for reforestation. After being nearly amended to death in the House, it was revived after a hard fight and sent over to the Senate, where it was consigned to the guillotine by the Calendar Committee.

Motor vehicle speed would have been regulated by three bills by: making private and public ambulances subject to speed laws; making the maximum speed limit 35 miles per hour for the duration of the war, except for police and emergency vehicles (the Governor has prescribed this speed limit under the Emergency War Powers Act); authorizing the State Highway and Public Works Commission to establish "maximum" legal speed limits, rather than "prima

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FAITH, WORK AND PLAY IN WARTIME

Continuing a Series of Articles by the Dean of Administration of the University of North Carolina

R. B. HOUSE

Some time ago I met my old Negro friend, Allison Norwood, on the sidewalk in Chapel Hill.

"Good morning, Uncle Allison!" I greeted him. "How are you feeling?"

"I ain't feeling so well this morning," responded Allison. "I got a misery in my side; it kept me wake all night."

"You ought to watch yourself," I broke in. "You ought to take the day off. You ought to see a doctor." I was innocently and without too much real thought just making conversation. Uncle Allison brought me up short with one of the most profound remarks I have ever heard.

"No," he replied with a smile. "I'm going to do what I always do when I feel low in my mind. I'm going to get on with my work. When I get to working, pretty soon I get to praying. When I get to praying, pretty soon I get to singing. And, when I get to singing, pretty soon the Spirit comes and moves the burden. Everybody's got a burden, and only the Spirit can move the burden."

I don't believe a man can be beat in this world who knows his work and will do it, whose work is a prayer, whose prayer is a song, and whose song finds a sure response from the source of help.

Uncle Allison knows his work. He is an artist with shovel and hoe. Chapel Hill is a more productive and more beautiful place because Uncle Allison knows and practices his homely and anciently beautiful arts. He possesses and executes the skill of hand, eye, and brain which is basic to gardening, an art which all America has got to learn all over again—I hope as well as Uncle Allison knows it.

Uncle Allison not only knows his work and lives by it, he lives as a person beautifully adjusted to his neighbors. There is a quiet dignity about him as when an artist greets another, as when one democrat finds a fellow spirit. His economic status is small, even for a Negro. His racial status is underprivileged, as any one can see. In fact, such a status excites and pains many of us who don't know one thing to do about it in the name of economic and social justice. But it does not excite Uncle Allison who seems to draw the water of life from a spring much clearer and lesstroubled than the economic and social. Carlyle, who wrote so much and so well about the man who is master of his work, who prays at his work, and who sings at work, would hove celebrated him in a new chapter called "The Hero as a Simple Christian." Doctor Johnson, who was celebrated by Carlyle because of his valor and truth, would have grasped the hand of Uncle Allison and got off another immortal saying. Goethe, who has been called the most modern of moderns, would have recognized in Uncle Allison's way of lifting his spirit more testimony such as he would have loved; namely, that in simple religion, independent of philosophy or science, there is the vital assisting and redeeming resource of mankind.

I have just finished reading the concluding volume of George Santayana's system of philosophy, *Realms of Being*. What interests me is that this profound and subtle mind versed in the ways of religion, philosophy, history, art, and science, testifies at his conclusion to spiritual help almost in the same way as does this old Negro of Chapel Hill. I would say that if anything Uncle Allison is more direct, vital, and happy in his knowledge than Mr. Santayana is in his.

My chief point in calling attention to Uncle Allison is to emphasize that he knows how to handle his moods. For one cause or another each one of us is apt to begin the day feeling low in mind. Happy is the man who knows how to turn to his work and in that work to express his prayer and his song and to find himself in that blessed mood in which the burden of the world is lifted. That is exactly the mood which Wordsworth celebrated in the immortal lines written near Tintern Abbey I have myself been celebrating the spiritual insight and practice of Uncle Allison all over North Carolina. I want to testify that I talk about the thing whereas Uncle Allison has it and lives by it.

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facie" legal speed limits, in restricted areas.

Pyrotechnics would have been outlawed all over the state, except as to public displays of fireworks by organizations under a permit issued by the Fire Marshal, or a fire or police chief, if H.B. 51 had been enacted instead of being frowned upon by the House Committee.

A House bill to establish the "International ¼-inch log rule" as used by the U. S. Forest Service as the standard of measurement of saw logs and round timber was killed in the Senate, although lumbermen in the House admitted that the seller of standing timber usually got the short end of the deal when the prevailing method of measurement is used.

Banks would have been affected by two bills: the State Treasurer would have been authorized to "reasonably compensate" banks paying North Carolina bonds and coupons, and industrial banks would have been limited to a total fee of $3 upon loans of less than $50 repayable in installments. And in towns having no com-

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Little Bills that Failed

When, in the course of legislative events, it becomes apparent that a local bill has failed, there are usually only two probable explanations. Either the introducer was a member of the minority party or the introducer himself took the necessary steps to accomplish the billicide for one reason or another. For, because of the dictates of "legislative courtesy," local bills introduced by members of the majority party are but rarely questioned on the floor of the legislature.

Most of the bills which do not pass are killed in committee, either in the Senate or the House. Some are too plainly violative of the specific constitutional prohibitions against local legislation; the general law already contains the provisions of many others and obviates the necessity for them.

For whatever cause, approximately one-fourth, or 167, of the local bills introduced in the 1943 session of the General Assembly never became law. A brief study of the nature of these bills which failed to pass is helpful in painting in the final details of the picture of local legislation.

County Officials. — Thirty - four local bills which never became law would have affected in the following ways the various county officials: regulated the salaries of commissioners, sheriffs, clerks of court, county attorneys, judges and prosecuting attorneys of recorders' courts, tax collectors, and registers of deeds; changed or set the term of office of boards of education, tax collectors, registers of deeds, and commissioners; required the publication of the minutes of commissioners and boards of education, and further regulated the meetings of these bodies; changed the manner of election of commissioners, boards of education, and judges (and their assistants) and prosecuting attorneys of recorders' courts, and provided for the filling of vacancies in these offices; allowed additional clerk hire for one clerk of court and authorized another to sign judgments on any day in the week (except Sunday); abolished the second primary in one county; required all law enforcement officers to report all fees collected.

Wine and Beer.—As pointed out in the June issue of POPULAR GOVERNMENT, the unregulated night and Sunday sale of beer and wine had created numerous unhealthy local situations. Approximately one-fourth of the local bills which finally failed were introduced to combat this problem: prohibiting the week-end sale of wine and beer; prohibiting night as well as week-end sales; authorizing elections on the question of complete prohibition of wine and beer; permitting county and city governing bodies to refuse to issue both "on premises" and "off premises" licenses; and regulating the sale in one way or another in certain restricted areas. The General Assembly enacted a state-wide bill regulating the sale of wine and beer which embodied the provisions of most of the local bills and obviated the necessity for them. They were peculiar to this particular session of the Legislature and their number increased by that much the number of local bills which would ordinarily have failed.

Courts.—Six of the local bills which failed dealt with the courts. They would have: repealed a local act limiting the number of J. P.'s in the county, requiring bond of the J. P.'s, and fixing their fees; allowed attorneys to serve as J. P.'s; abolished jury trials in all inferior courts in the county, except J. P. courts; required that cases in the inferior court be transferred upon demand for a jury trial; regulated the costs in the inferior court; and set the terms of the Superior Court.

Finance and Taxation. — Local bills which did not go through would have authorized, in two counties, the transfer of certain funds to the general fund of the county. Others would have: authorized adjustments by the county on delinquent taxes; changed the date as of which taxes must be listed to April 1st; regulated the prepayment of taxes and acceptance of the tax books by the tax collector; and regulated the penalties and interest on delinquent taxes.

One of the many "little pages" in the General Assembly.

Miscellaneous Bills Affecting Cities and Towns.—For reasons which are not in most cases apparent on the surface, sixteen local bills affecting cities and towns failed to pass. These measures would have: extended corporate limits, changed corporate limits, or extended the police power to outside territory; amended charters in various particulars and, in one case, dissolved the town charter completely; regulated taxi-cabs; amended the law providing a civil service commission in one case and created a commission for the police and fire departments in another; prohibited a city's charging an auto registration fee; altered the powers of a city over certain bonds; authorized an election on the question of establishing a commission form of government; and regulated the location of junkyards.

Miscellaneous Bills Affecting Counties. — Almost half-a-hundred local bills, with a variety as great as the needs and wishes of local officials, citizens, sportsmen, school authorities and employees, voters, taxpayers, etc., can create, never became law. Some of the main topics of these attempts at local legislation were: game, registration of instruments, election laws, and libraries. There is no common denominator for the majority of them.

The Withholding Tax

The part of the Current Tax Payment Act of 1943 that is uppermost in the minds of most people, and that will give the most trouble to finance officials of counties, cities and towns, is the provision for withholding the tax from wages and making remittance to the government. It is the purpose of this article to summarize, as briefly as possible, the principal features of the Act as it concerns counties, cities and towns, and to provide a composite schedule or chart to be used in making deductions from salaries and wages. The provisions of the Act with reference to dealing with special cases or circumstances not likely to be encountered by counties, cities and towns are not discussed herein. For provisions dealing with such special or unusual circumstances, the Act, or rules and regulations pursuant thereto, should be consulted.

1. Employers and Employees Subject to the Act

"Employer" under the Act is defined as any person or corporation for whom an individual performs any service as an employee. The term includes the Government of the United States, of the States, and of all counties, cities and towns and all political subdivisions and agencies and instrumentalities.

"Employee" under the Act means any person who bears the legal relation of employee to the one for whom he performs services, regardless of whether his compensation is in the form of a salary, commissions, or is on some other basis. The usual test in determining whether the legal relationship of employer and employee exists is whether the former has the right not only to direct *what* work is to be performed, but also *how* it shall be done, and whether or not the right is actually exercised. Unless such right is reserved, either expressly or by implication, the persons performing the services are usually, but not always, classified as independent contractors—those who owe a duty only as to the result, and not as to the means or methods to be employed. As to governmental units, elected as well as appointed officials are regarded as "employees."

2. Effective Dates

The withholding part of the Current Tax Payment Act of 1943 is effective as of July 1, 1943. The Victory Tax is not repealed, but is absorbed in the new Act. Deductions will be made under the old Victory Tax schedule with respect to salaries and wages paid for payroll periods beginning on or before June 30 (provided payment is made during 1943). The new 20% withholding schedules will be used with respect to payroll periods starting on and after July 1.

3. Rate of Withholding and Exemptions

The rate of withholding is set at 20% of salaries and wages in excess of the exemptions allowed. The 20% deduction includes 3% for the Victory tax, which is still in force. The exemptions are determined, so far as the employer is concerned, by the family status disclosed by the "Employee's Withholding Exemption Certificate." They run from $624 per year for a single person to $1248 for a married person living with his spouse and claiming all of the exemption, plus $312 for each dependent. The yearly exemption allowable is apportioned in accordance with the payroll period as in the case of the Victory Tax. The amount to be withheld must be either 20% of the excess of wages over the exemption, or 3% of the excess of wages over the Victory Tax exemption of $624 apportioned to the payroll period, whichever is larger. The employer has the option of computing each deduction, or of making deductions in accordance with withholding tables. In the case of smaller salaries where the employee has a number of dependents, there may be no excess over his family status exemption. Example: the employee makes $2,400 per year, or $200 per month. He is a married man with four children and claims all of the exemption and is therefore entitled to an exemption of $1248 plus 4 times $312, which is $2496 per year or $208 per month—$8 more than the salary. But the employee in the example given would still be liable for the victory tax, and the employer would have to deduct it. He would take the monthly Victory Tax exemption of $52 from the $200 salary and deduct 3% of the remainder. The deduction would be 3% of $148 or $4.44.

Since the amount withheld from salaries is subject to adjustment and to refunds in case of overpayment, it is suggested that the withholding schedules be used in all cases. Those schedules automatically take care of the question of whether to use the 20% rate and larger exemption or the 3% rate and smaller exemption, except in those cases where the employee has a larger number of dependents than is shown on the schedule. In such cases, care should be taken to see that at least 3% of the excess of the salary over the Victory Tax exemption is withheld.

4. Duty of the Employee

a. First of all, the employee must fill out and file with his employer the "Employee's Withholding Exemption Certificate" (Form W-4), which sets out his status for the purpose of determining his exemption. The employer may accept the statement of the employer as true and make deductions accordingly, but the employee should be warned that he is liable to prosecution for making false statements. If the employee is a married person living with husband or wife, he may claim all of the exemption (in which case his spouse may claim none), he may claim half of the exemption (in which case his spouse may claim half), or he may claim none of the exemption (in which case his spouse may claim all of it). *If an employee fails to file an exemption certificate, he is entitled to no exemption.*

Difficulty may be encountered in securing an adequate supply of W-4 forms. In such case the employer should have printed or mimeographed a sufficient number for his employees.

b. The employee has not discharged his duty with regard to the tax merely by furnishing an exemption certificate to the employer and finding his pay envelope somewhat lighter each payday. His tax isn't "paid and satisfied" by virtue of the withholding. He is merely accumulating a credit to apply on his income and Victory tax liability to be assessed on the basis of a return he must file by next March 15. On the basis of that return, he may find that he owes an additional amount, and must pay it. Or he may find that more has been withheld from his wages than his tax amounts to, in

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Withholding Schedule According to Wage Brackets and Payroll Periods

Under the Current Tax Payment Act of 1943 (Subchapter D, Chapter 9, Internal Revenue Code)

PREPARED BY THE INSTITUTE OF GOVERNMENT

	WAGE BRACKETS AND IF THE WAGES ARE		If the Employee is Married But Claims None of the Personal Exemption and Has the Following Number of Dependents:										
			NONE	*ONE*	*TWO*	*THREE*	*FOUR*	*FIVE*	*SIX*	*SEVEN*	*EIGHT*	*NINE*	
					If the Employee is Married and Claims Half of the Personal Exemption and Has the Following Number of Dependents:								
					NONE	*ONE*	*TWO*	*THREE*	*FOUR*	*FIVE*	*SIX*	*SEVEN*	
					If the Employee is Single and Has the Following Number of Dependents:								
					NONE	*ONE*	*TWO*	*THREE*	*FOUR*	*FIVE*	*SIX*	*SEVEN*	
							If the Employee is Married and Claims All of the Personal Exemption And Has the Following Number of Dependents:						
							NONE	*ONE*	*TWO*	*THREE*	*FOUR*	*FIVE*	
							If the Employee is Head of a Family And Has the Following Number of Dependents:						
	At Least	*But Under*					*None or One*	*TWO*	*THREE*	*FOUR*	*FIVE*	*SIX*	
			DEDUCT THE TAX SHOWN IN THE APPROPRIATE COLUMN BELOW										
FOR WEEKLY PAYROLLS	$ 0	$10	$1.00										
	10	15	2.50	$1.30	$0.10								
	15	20	3.50	2.30	1.10	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$.020	
	20	25	4.50	3.30	2.10	90	.30	.30	.30	.30	.30	.30	
	25	30	5.50	4.30	3.10	1.90	.70	.50	.50	.50	.50	.50	
	30	40	7.00	5.80	4.60	3.40	2.20	1.00	.70	.70	.70	.70	
	40	50	9.00	7.80	6.60	5.40	4.20	3.00	1.80	1.00	1.00	1.00	
	50	60	11.00	9.80	8.60	7.40	6.20	5.00	3.80	2.60	1.40	1.30	
	60	70	13.00	11.80	10.60	9.40	8.20	7.00	5.80	4.60	3.40	2.20	
	70	80	15.00	13.80	12.60	11.40	10.20	9.00	7.80	6.60	5.40	4.20	
	80	90	17.00	15.80	14.60	13.40	12.20	11.00	9.80	8.60	7.40	6.20	
	90	100	19.00	17.80	16.60	15.40	14.20	13.00	11.80	10.60	9.40	8.20	
	100	110	21.00	19.80	18.60	17.40	16.20	15.00	13.80	12.60	11.40	10.20	
	110	120	23.00	21.80	20.60	19.40	18.20	17.00	15.80	14.60	13.40	12.20	
	120	130	25.00	23.80	22.60	21.40	20.20	19.00	17.80	16.60	15.40	14.20	
	130	140	27.00	25.80	24.60	23.40	22.20	21.00	19.80	18.60	17.40	16.20	
	140	150	29.00	27.80	26.60	25.40	24.20	23.00	21.80	20.60	19.40	18.20	
	PLUS 20% OF THE EXCESS OVER $150.												

If the number of dependents is more than the largest number of dependents shown, subtract $1.20 from the tax for each additional dependent. But in no event withhold less than 3% of the wage less the specific Victory Tax exemption of $12.00.

FOR BIWEEKLY PAYROLLS	$ 0	$20	$2.00										
	20	30	5.00	$2.60	$.020								
	30	40	7.00	4.60	2.20	$0.30	$0.30	$0.30	$0.30	$0.30	$0.30	$0.30	
	40	50	9.00	6.60	4.20	1.80	.60	.60	.60	.60	.60	.60	
	50	60	11.00	8.60	6.20	3.80	1.40	.90	.90	.90	.90	.90	
	60	80	14.00	11.60	9.20	6.80	4.40	2.00	1.40	1.40	1.40	1.10	
	80	100	18.00	15.60	13.20	10.80	8.40	6.00	3.60	2.00	2.00	2.00	
	100	120	22.00	19.60	17.20	14.80	12.40	10.00	7.60	5.20	2.80	2.60	
	120	140	26.00	23.60	21.20	18.80	16.40	14.00	11.60	9.20	6.80	4.40	
	140	160	30.00	27.60	25.20	22.80	20.40	18.00	15.60	13.20	10.80	8.40	
	160	180	34.00	31.60	29.20	26.80	24.40	22.00	19.60	17.20	14.80	12.40	
	180	200	38.00	35.60	33.20	30.80	28.40	26.00	23.60	21.20	18.80	16.40	
	200	220	42.00	39.60	37.20	34.80	32.40	30.00	27.60	25.20	22.80	20.40	
	220	240	46.00	43.60	41.20	38.80	36.40	34.00	31.60	29.20	26.80	24.40	
	240	260	50.00	47.60	45.20	42.80	40.40	38.00	35.60	33.20	30.80	28.40	
	260	280	54.00	51.60	49.20	46.80	44.40	42.00	39.60	37.20	34.80	32.40	
	280	300	58.00	55.60	53.20	50.80	48.40	46.00	43.60	41.20	38.80	36.40	
	PLUS 20% OF THE EXCESS OVER $300.												

If the number of dependents is more than the largest number of dependents shown, subtract $2.40 from the tax for each additional dependent. But in no event withhold less than 3% of the wage less the specific Victory Tax exemption of $24.00.

FOR SEMI-MONTHLY PAYROLLS

60	80	14.00	11.40	8.80	6.20	3.60	1.30	1.30	1.30	1.30	1.30
80	100	18.00	15.40	12.80	10.20	7.60	5.00	2.40	1.90	1.90	1.90
100	120	22.00	19.40	16.80	14.20	11.60	9.00	6.40	3.80	2.50	2.50
120	140	26.00	23.40	20.80	18.20	15.60	13.00	10.40	7.80	5.20	3.10
140	160	30.00	27.40	24.80	22.20	19.60	17.00	14.40	11.80	9.20	6.60
160	180	34.00	31.40	28.80	26.20	23.60	21.00	18.40	15.80	13.20	10.60
180	200	38.00	35.40	32.80	30.20	27.60	25.00	22.40	19.80	17.20	14.60
200	220	42.00	39.40	36.80	34.20	31.60	29.00	26.40	23.80	21.20	18.60
220	240	46.00	43.40	40.80	38.20	35.60	33.00	30.40	27.80	25.20	22.50
240	260	50.00	47.40	44.80	42.20	39.60	37.00	34.40	31.80	29.20	26.60
260	280	54.00	51.40	48.80	46.20	43.60	41.00	38.40	35.80	33.20	30.60
280	300	58.00	55.40	52.80	50.20	47.60	45.00	42.40	39.80	37.20	34.60

PLUS 20% OF THE EXCESS OVER $300.

ber of dependents shown, subtract $2.60 from the tax for each additional dependent. But in no event withhold less than 3% of the wage less the specific Victory Tax exemption of $26.00.

FOR MONTHLY PAYROLLS

$ 0	$40	$4.00									
40	50	9.00	$3.80								
50	60	11.00	5.80	$0.60	$0.10	$0.10	$0.10	$0.10	$0.10	$0.10	$0.10
60	70	13.00	7.80	2.60	.40	.40	.40	.40	.40	.40	.40
70	80	15.00	9.80	4.60	.70	.70	.70	.70	.70	.70	.70
80	100	18.00	12.30	7.60	2.40	1.10	1.10	1.10	1.10	1.10	1.10
100	120	22.00	16.80	11.60	6.40	1.70	1.70	1.70	1.70	1.70	1.70
120	140	26.00	20.80	15.60	10.40	5.20	2.30	2.30	2.30	2.30	2.30
140	160	30.00	24.80	19.60	14.40	9.20	4.00	2.90	2.90	2.90	2.90
160	200	36.00	30.80	25.60	20.40	15.20	10.00	4.80	3.80	3.80	3.80
200	240	44.00	38.80	33.60	28.40	23.20	18.00	12.80	7.60	5.00	5.00
240	280	52.00	46.80	41.60	36.40	31.20	26.00	20.80	15.60	10.40	6.20
280	320	60.00	54.80	49.60	44.40	39.20	34.00	28.80	23.60	18.40	13.20
320	360	68.00	62.80	57.60	52.40	47.20	42.00	36.80	31.60	26.40	21.20
360	400	76.00	70.80	65.60	60.40	55.20	50.00	44.80	39.60	34.40	29.20
400	440	84.00	78.80	73.60	68.40	63.20	58.00	52.80	47.60	42.40	37.20
440	480	92.00	86.80	81.60	76.40	71.20	66.00	60.80	55.60	50.40	45.20
480	520	100.00	94.80	89.60	84.40	79.20	74.00	68.80	63.60	58.40	53.20
520	560	108.00	102.80	97.60	92.40	87.20	82.00	76.80	71.60	66.40	61.20
560	600	116.00	110.80	105.60	100.40	95.20	90.00	84.80	79.60	74.40	69.20

PLUS 20% OF THE EXCESS OVER $600.

If the number of dependents is more than the largest number of dependents shown, subtract $5.20 from the tax for each additional dependent. But in no event withhold less than 3% of the wage less the specific Victory Tax exemption of $52.00.

FOR DAILY PAYROLLS

$ 0	$ 1	$0.10									
1	2	.30	$0.15								
2	3	.50	.35	$0.15							
3	4	.70	.55	.35	$0.20	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05
4	5	.90	.75	.55	.40	.20	.10	.10	.10	.10	.10
5	6	1.10	.95	.75	.60	.40	.25	.10	.10	.10	.10
6	7	1.30	1.15	.95	.80	.60	.45	.30	.15	.15	.15
7	8	1.50	1.35	1.15	1.00	.80	.65	.50	.30	.15	.15
8	9	1.70	1.55	1.35	1.20	1.00	.85	.70	.50	.35	.20
9	10	1.90	1.75	1.55	1.40	1.20	1.05	.90	.70	.55	.35
10	12	2.20	2.05	1.85	1.70	1.50	1.35	1.20	1.00	.85	.65
12	14	2.60	2.45	2.25	2.10	1.90	1.75	1.60	1.40	1.25	1.05
14	16	3.00	2.85	2.65	2.50	2.30	2.15	2.00	1.80	1.65	1.45
16	18	3.40	3.25	3.05	2.90	2.70	2.55	2.40	2.20	2.05	1.85
18	20	3.80	3.65	3.45	3.30	3.10	2.95	2.80	2.60	2.45	2.25
20	22	4.20	4.05	3.85	3.70	3.50	3.35	3.20	3.00	2.85	2.65
22	24	4.60	4.45	4.25	4.10	3.90	3.75	3.60	3.40	3.25	3.05
24	26	5.00	4.85	4.65	4.50	4.30	4.15	4.00	3.80	3.65	3.45
26	28	5.40	5.25	5.05	4.90	4.70	4.55	4.40	4.20	4.05	3.85
28	30	5.80	5.65	5.45	5.30	5.10	4.95	4.80	4.60	4.45	4.25

PLUS 20% OF THE EXCESS OVER $30.

If the number of dependents is more than the largest number of dependents shown, subtract 15c from the tax for each additional dependent. But in no event withhold less than 3% of the wage less the specific Victory Tax exemption of $1.70.

FOR MISCELLANEOUS PAYROLL PERIODS

Divide the total wage paid for the entire period by the number of days in the period, including Sundays and holidays, to get the average daily wage. Then multiply the amount of the tax for one day on the average daily wage, as shown on the withholding schedule for daily payrolls above, by the total days in the payroll period. The result will be the amount of tax to be withheld.

EXAMPLE: The employee is married and claims all of the personal exemption and has one dependent. He is paid $450 for a period beginning July 10 and ending September 7, covering a total period of 60 days. $450 ÷ 60 = $7.50, the average daily wage. Reference to the proper column in the Daily Payroll Schedule shows the daily deduction to be 65c. Multiply this amount by 60, the number of days in the payroll period to find the amount of tax to be withheld: 65c × 60 = $39.

EXPLANATION

This schedule is constructed to indicate the proper amount of tax to be withheld whether the 20% or the 3% rate applies to the particular case, except where there are more dependents than are shown on the schedule above and such additional dependents would increase the family status withholding exemption to the point where the tax would be less than 3% of the wage after deducting the Victory tax exemption of $624 per year, apportioned to the payroll period. In such case, the 3% rate must be applied.

In using this schedule, first find the employee's proper classification at the top of the page. Then, at the left margin of the page find the applicable pay roll period and in that period find his wage bracket. (The first two columns.) Trace the line of the wage bracket across the page to the column under the number of the employee's dependents, and the figure found on such line in such column will be the amount of tax.

which case he will be given a refund. In either case, he should be prepared to file his tax return and to that end he should save the statements of taxes withheld given him by his employer.

Estimates of tax liability.—If the employee is single, or is married but does not live with his spouse and can reasonably expect to earn more than $2,700 as wages for the tax year, or did earn more than that last year; or if he is married and lives with his spouse and both husband and wife can reasonably expect to earn as wages a total of more than $3,500 during the tax year, or did earn more than that last year; or, if the employee alone, or the employee and his spouse if they are living together, can reasonably expect to receive a gross income from sources other than wages during the taxable year of more than $100 which, when added to the wages would exceed $624 if single or $1200 if married and living with his spouse; or, had an income from other sources last year in excess of $100 and such other income, added to wages, exceeded $624 if single or $1200 if married and living with his spouse, the employee must file, on or before September 15, an estimate of his tax liability for the year. If, by December 15, it appears that he has made more than a 20% error in his estimate, he must file an amended estimate, and he will be penalized if the estimate is more than 20% off and he fails to make the amended estimate. A similar declaration or estimate must be made by next March 15 with respect to 1944 taxes.

Payment of the estimated tax must be made in quarterly installments—as many installments as there are quarters left in the tax year. Thus, those who file returns on the calendar year basis will have to pay ½ the estimated tax on September 15 and the other half on December 15, after receiving credit for amounts withheld from wages and credit from the 1942 and 1943 tax, whichever is applicable.

5. The Duty of the Employer

It is the duty of every employer to withhold from all wages and salaries paid the tax at the rate set out above, or the amount of tax indicated by the schedule.

Remittance of the amount of taxes withheld must be made by the end of each month following the close of each quarter. Thus, the first remittance to the Collector of Internal Revenue must be made on or before October 31.

If an employer withholds more than $100 during the month, he must deposit the amount withheld with a bank designated by the Secretary of the Treasury, by the tenth of the following month, and he will be given a receipt. He may deposit the taxes withheld by the tenth of each month, or he may make such deposits with respect to amounts withheld the first and second months and then make direct remittance to the Collector of Internal Revenue for the third month, at the time he makes his return for the quarter, by the end of the month following the close of the quarter. Local banks will have a list of authorized depositories.

Statements must be given to each employee by the end of January of each year, or at the time he leaves the employers services if it is before that date, showing the total amount of wages earned during the preceding calendar year and the total amount withheld for taxes. Information returns will no longer be required with respect to wages from which taxes have been withheld, if copies of statements to employees accompany the employer's final return for the year.

6. Returns of Officials on a Fee Basis

Officials whose compensation is provided by fees collected by them are not subject to the withholding provision of the Current Tax Payment Act. But like doctors, lawyers and everyone else, they are subject to the other features of the Act and if the aggregate of their fees is sufficient, must file their estimates by September 15 this year and by March 15 next year and make quarterly payments on the estimated tax liability. The only difference between them and officials on a salary basis will be that there will be no credits by reason of taxes withheld at the source to apply on such liability. If the official is on a salary plus fee basis, deductions should be made from his salary as in the case of other employees.

FORM W-4
U. S. TREASURY DEPARTMENT
Internal Revenue Service

EMPLOYEE'S WITHHOLDING EXEMPTION CERTIFICATE
(Collection of Income Tax at Source on Wages)

Name _____ (Print full name)

Address _____ (Print home address) Social Security No. _____

I. Check the box in the line below which applies to *you* on the date this form is filled in:

- Married person living with husband or wife but claiming none of the personal exemption (1) ☐
- Married person living with husband or wife but claiming half of the personal exemption (2) ☐
- Single person (not head of a family) or married person not living with husband or wife (not head of a family) (3) ☐
- Married person living with husband or wife and claiming all of the personal exemption (spouse claiming none of the exemption) (4) ☐
- Head of a family (a single person or married person not living with husband or wife who exercises family control and supports closely connected dependent relative(s) in one household) (5) ☐

II. Number of dependents receiving chief support from you who are either under 18 years of age or incapable of self support because mentally or physically defective _____

I declare that the entries made herein are a true and complete statement as of the date indicated, pursuant to the Internal Revenue Code and the regulations issued under authority thereof.

Date _____, 194 (Signature) _____

Local Legislation in 1943

Summarizing Special Acts Affecting Cities, Towns and Counties

CLIFFORD PACE
of the Staff of the Institute of Government

In recent years the chant of the tobacco auctioneer, as he moves down the long rows of baskets spouting the bids on each basket in a never-ending spiel, has become as familiar to radio listeners the country over as the ringing of church bells on Sunday morning. The fascinating skill of the auctioneer has come to be a constant source of wonderment. No whit less consummate, only less publicized, is the skill of the presiding officers of the Senate and House of Representatives as they dispose of each day's calendar of public-local acts, moving down the sometimes long lists of local bills with scarcely time for the ayes and noes. Of the 1163 bills (not including resolutions) introduced in the 1943 session of the General Assembly, 647 were local bills, applying to particular counties, cities, or districts and constituting approximately 60% of all bills introduced. Obviously, considerable speed in disposing of these local measures is expedient.

This year's percentage of local bills introduced was not out of line with the percentages in former years. For the past several sessions, approximately two-thirds of all introductions have been local bills. Of the local bills introduced in the 1943 General Assembly 494, or 76%, were passed. Again, that figure appears to be in line with the normal percentage of local bills passed by the Legislature for several sessions, indicating the very low mortality rate of local bills. Approximately 65% of the public bills introduced were passed, taking into consideration the large number of duplicate bills introduced simultaneously in both Houses. Local Acts constitute 63% of the new laws of 1943, 34% are public bills, and about 3% grant relief to private individuals.

The subject matter of local bills is as varied as the needs of one hundred counties, over three hundred cities and towns, and innumerable townships and special districts can make it—within the Constitutional prohibition against special legislation on the topics enumerated in Section 29 of Article II of the North Carolina Constitution. But as nearly as it may be classified, there is here presented the 1943 General Assembly's local legislation, under these main heads: County Officials, Taxes, County and Municipal Finances, Schools, Courts, Elections and Election Laws, Miscellaneous Local Acts Affecting Counties, and Miscellaneous Local Acts Affecting Cities and Towns.

A broad picture of local legislation throughout the State has been presented for the inspection of town, county and city officials in the belief that what has been done in some counties of the state may be of great interest to the corresponding officers in other counties, cities and towns.

COUNTY OFFICIALS

(1) Clerks of Superior Court

Compensation. Clerks of Court had their salaries raised or regulated, had their basis of compensation changed from fees to salary or vice versa, had the fees allowed them regulated in some way, in the following counties: Forsyth, Durham, Moore, Columbus, Orange, Bladen, Jones, Franklin, Guilford, Caldwell, Pasquotank, Washington, Hertford and Carteret. The pay of Deputy Clerks or Assistant Clerks was regulated in: Rockingham, Durham, Columbus, Warren, Orange, Northampton, Iredell, Haywood, Henderson, Surry and Granville Counties. Additional clerk hire was authorized for the Clerk's office in Davie, New Hanover and Yadkin Counties.

Reports. C. S. 956, requiring an annual report by all clerks as to the public funds in their hands, was amended as to four counties. The Clerks of Greene and Wake Counties will not be required to make this annual report if their accounts are audited at least once a year by a certified public accountant acceptable to the County Commissioners. Rockingham County's Clerk is now required to make his report on October 31 instead of the first Monday in December; and the Register of Deeds of Wilson County is relieved of the requirement that he publish the Clerk's report.

Duties. C. S. 65(a), providing that sums less than $300 due intestates may be paid in to the Clerk of Court, who shall pay out such funds according to the statute, was amended so as to apply to Caswell, Wilkes, Yancey and Lenoir Counties.

(2) Sheriffs

Compensation. The salaries paid and the fees allowed to sheriffs—fees for arrests, liquor seizures, tax collections, service of process, mileage allowances, etc.—were regulated in the following counties: Rockingham, Guilford, Edgecombe, Columbus, Orange, Gates, Franklin, Jones, Currituck, Macon, Montgomery, Robeson, Harnett, Alleghany and Perquimans. The pay of their deputies was regulated in Guilford, Edgecombe, Duplin, Currituck, Orange, Davie, Yancey, Wilkes, Davidson, Franklin, Washington, Rutherford, Montgomery, Henderson and Yadkin. Jailers' salaries were fixed in Hertford, Northampton and Granville Counties.

Clerical assistance for the sheriff's office was authorized in Alleghany and Surry Counties. The offices of sheriff and *jailer* were separated in Bertie County. Currituck's sheriff and all deputies were required to account for all fees and commissions coming into their hands by virtue of their office. Deputies were appointed for two townships in Currituck—Fruitville and Crawford—while the requirement for a deputy in another—Moyock—was repealed.

(3) Registers of Deeds

Compensation. Measures fixing the salaries paid or the fees allowed to registers of deeds were passed for the following counties: Guilford, Mecklenburg, Durham, Moore, Columbus, Warren, Orange, Bladen, Franklin, Caswell, Johnston, Swain, Hertford and Surry. The pay of deputies, assistants or clerks was regulated in Moore, Orange, Northampton, Union, Iredell and Granville. The Mitchell County register of deeds was placed on a fee basis, while the Madison County register was changed from a fee to a salary basis.

Terms. The term of office of the register of deeds was extended in Iredell and Carteret and Haywood Counties.

Clerk hire. Additional allowance for clerk hire in the register's office was made in Sampson and Davie Counties. The

amount allowable for clerk hire was fixed in Yadkin and Gates Counties.

New *index systems* in the register of deeds' office in Johnston and Northampton Counties were validated and the procedure for registering maps, plats and drawings in Lincoln County was regulated.

(4) County Commissioners

Of the thirty-four local Acts directly affecting the various boards of county commissioners, over one-half were concerned with the matter of salaries or other compensation of the board members. Seven Acts related to the length of terms of office, four set the number of commissioners, four prescribed the method of electing members to the boards, while the matter of naming a clerk to the board was the subject of one Act.

Compensation of board members was fixed for the following counties:

ALEXANDER—The Chairman is to receive $12 for each regular and $6 for each special meeting attended; other members are to receive $10 for each regular and $5 for each special meeting attended; compensation for not more than one regular meeting is to be paid in any calendar month.

BERTIE—The Chairman is to receive $25 per year plus $12.50 for each day board is in session; other members are to receive $10 for each day board is in session; all members are allowed 10c mileage one way.

BLADEN—A full time member is provided to be the administrative head of the county government, to receive not over $600 per year.

BRUNSWICK—Members are to be paid, for not over two regular meetings a month, $7 per day plus 5c mileage; $2 per day and mileage for special meetings.

DURHAM—Members are to receive a per diem of $10 for each day served, but not to be paid for more than 48 days in any twelve-month period.

GASTON—Some member other than the chairman may be assigned additional duties and receive not more than $600 for such additional services; other members are to receive $7 per day and mileage.

GATES—Members are to receive $5 per day for attendance at meetings, plus 5c mileage.

LENOIR—Members (other than the chairman) are to receive $25 per month plus mileage.

LINCOLN—The chairman is to receive $30 per month; other members to receive $10 per diem plus 5c mileage for not over two days per month except when sitting as the board of equalization and review when the regular per diem will be allowed.

MACON—The members are to receive $5 per day for not more than 10 days per month, plus 5c mileage.

MECKLENBURG—The chairman is to receive $2,400 per year.

MONTGOMERY—The members are to receive $25 per month, no mileage allowed.

MOORE—The chairman is to receive $50 per month; other members to receive $10 per day; all allowed 5c mileage.

ROWAN—The board is authorized to fix per diem and mileage and to set aside $2,400 to pay members other than the chairman.

RUTHERFORD—The members are to receive $50 per month each in lieu of per diem and mileage.

SAMPSON—The per diem is raised from $3 to $7.50, and the chairman is allowed 5c mileage.

SWAIN—The chairman is to receive $7 for each day that he is engaged in his duties, for not more than 7 days per month.

Terms were fixed in the following counties:

BRUNSWICK—The terms are reduced from four to two years, beginning with the election in 1946.

CUMBERLAND—The terms are increased from two to four years and terms staggered so that two or three members, alternately, will be elected every two years. In order to set up staggered terms, terms of two incumbents are extended to December, 1946, successors to be elected for four years. The other three members will be elected in 1944 for four-year terms.

GRAHAM—The terms are reduced from four to two years; the terms of incumbents are cut in half.

HAYWOOD—The terms are increased from two to four years; terms of chairman and two members are extended to December, 1946.

IREDELL—The terms are increased from two to four years; terms of incumbents are extended to December, 1946.

MACON—The terms are increased from two to four years; terms of incumbents are extended to December, 1946.

MONTGOMERY—The terms are increased from two to four years and are to be staggered. One incumbent (D. J. McLeod) is to hold over until December, 1946.

The number of commissioners was increased in:

CASWELL—The board is increased from three to five members, one member to be elected by county-wide vote from each of five new county commissioner districts. If any districts should fail to produce a candidate, the Clerk of the Superior Court is to appoint a member from such district.

GATES—The board is increased from three to five members, one member to be elected by county-wide vote from each of five new county commissioner districts; provision is made for staggered four-year terms.

LEE—The board is increased from three to five members, by so amending C. S. 1293.

ROBESON—The board is increased from five to six members, by the creation of a sixth county commissioner district.

Elections were regulated in:

HALIFAX—Each of five county commissioner districts is to nominate one candidate to the five-member board, which is to be elected by county-wide vote.

HYDE—The county commissioner districts are abolished and elections are to be held pursuant to the general law.

PASQUOTANK—Ch. 183, Public-Local Laws of 1940 is repealed and Ch. 460, Public-Local Laws of 1933 is re-enacted, to provide for the nomination by each party of one candidate from each of the five rural townships and two candidates from Elizabeth City Township, to be elected by county-wide vote.

PERSON—County commissioner districts are abolished.

WILSON—A *clerk* to the board of county commissioners may be named in the county; the clerk may be some other official who will serve as clerk *ex officio* for an additional compensation to be fixed by the board.

(5) Tax Collectors and Supervisors

Fifteen local Acts dealt with tax collectors and tax supervisors of thirteen counties. The compensation, duties, terms and assistants of those officers were provided for in the following counties:

ALLEGHANY—(1) Commissioners are authorized to appoint a collector of back taxes for the years 1937 through 1941 and to fix his salary and bond.

(2) The tax collector is to share a clerk with the sheriff and treasurer. The clerk's salary is set at $75 per month.

AVERY—The tax collector-supervisor is required to make four trips to each voting precinct in the county each year for the purpose of collecting taxes; to exhaust all remedies against personal property before selling real estate. He is to receive 2% of all taxes collected in full as his compensation.

CASWELL—The tax collector is allowed $400 per year for clerk hire.

GUILFORD—All duties of the tax collector are transferred to the tax supervisor, and the office of tax collector is abolished. Commissioners authorized to provide necessary assistants for the tax supervisor and to fix salaries.

HALIFAX—The tax collector and his deputies are permitted to carry arms while on official duty.

HARNETT—The tax collector is to assume all the duties of the delinquent tax collector and is to receive $15,000 per year to cover his salary, clerk hire, and all expenses of his office.

HAYWOOD—The tax collector's term is increased to four years, and the term of the incumbent (elective) is extended to 1946.

HENDERSON—An assistant to the tax collector is authorized at a salary of $100 per month plus commissions not to exceed $100 per month.

HERTFORD—The appointive office of tax collector is created, the collector to serve at the will of the commissioners at a salary of not more than $3,000 per year plus allowance of not over $600 for travel expense.

MECKLENBURG—The collector of revenue is to receive not over $300 per month, to be fixed by the board.

ORANGE—County Accountant and Tax Supervisor authorized to appoint an office clerk at a salary not to exceed $1,200 per year, to be set by the commissioners.

PERQUIMANS—The Commissioners are authorized to allow the tax collector or sheriff 5% commissions on all taxes collected for the tax years 1942-1943 and subsequent years.

SURRY—(1) The commissioners are authorized to appoint district tax collectors and make provision for their offices in their districts. Municipal taxes may be collected by the district tax collectors by arrangement with the towns involved.

(2) Present tax supervisor and purchasing agent to hold office until December, 1944, when his successor will be appointed for a two-year term.

SWAIN—The County Accountant, performing duties of tax collector, is to receive $2,400 per year.

(6) County Accountants

County accountants were directly affected by eight local Acts. In *Brunswick* County, the accountant is given a four-year term of office and is to be appointed by the Director of Local Government, beginning in December, 1944. In *Cherokee*, the accountant is made delinquent tax collector. A salary of $75 per month is set for the *Clay* County Accountant. At the next regular election in *Franklin*, the accountant is to be elected for a four-year term. An office clerk at a salary not to exceed $1,200 per year is authorized in *Orange* County. The *Surry* County Commissioners are authorized to appoint an accountant for a two-year term and pay him a salary of $3,600 per year. In *Swain*, the accountant is to assume the duties of the tax collector and receive a salary of $2,400 per year for discharging the duties of both offices. And in *Yancey* County, J. A. Goodwin is appointed county accountant for a two-year term at a salary of $125 per month. In the event of a vacancy, the unexpired term would be filled by an appointee of the Clerk of the Superior Court, the chairman of the County Commissioners, and the Superintendent of Public Instruction.

(7) Treasurers

The office of county treasurer was abolished in *Pitt*, *Rutherford* and *Washington* counties, and banks to act as treasurer are to be designated as depositories of county funds. *Terms* were extended from two to four years in *Gaston* and *Person* Counties. Salaries were fixed in *Guilford* ($3,900 per year) and *Orange* ($1,200 per year). In *Durham* County, the County Commissioners are authorized to appoint an assistant treasurer and a clerk or stenographer and fix their salaries, while in *Alleghany* County the treasurer will share a clerk with the sheriff and tax collector, the clerk to receive $75 per month.

TAXES

Taxes, tax collection, tax exemption and tax remission of various counties and municipalities and other tax matters—fifty-nine local Acts affected this field. The counties and municipalities affected and the subject matter of the Acts are as follows:

ALEXANDER—An election was authorized on the question of levying tax of 3c on the $100 valuation for the support of public libraries in the county.

ANSON—(1) The county commissioners are authorized to appoint a local policeman for each of the four county commissioner districts. The board may also appoint a delinquent tax collector, or assign to the rural policemen the duty of collecting delinquent taxes. Tax of 5c on the $100 valuation authorized to pay the salaries and expenses of the rural police and delinquent tax collector.

(2) The county commissioners are authorized to adjust and settle delinquent taxes for 1935 and all prior years.

AVERY—Provision is made for the apportionment of the cost of tax listing, collecting and auditing among the various funds benefited by the levy.

BERTIE—(1) Tax levies are validated for the years 1937 through 1942, and also acts of commissioners and tax collector relating to sales of land for delinquent taxes for the years 1937 through 1941.

(2) *Aulander* tax listings, levies, assessments and foreclosures of taxes for 1942 and all prior years are validated. Town authorized to compromise taxes and paving assessments for 1941 and prior years. Foreclosure proceedings for street and sidewalk assessments authorized. Makes any statute of limitations inoperative as to tax proceedings until July 1, 1944, except as to taxes for 1926 and prior years.

(3) *Kelford* tax rate not in excess of 60c authorized. Validates tax rates heretofore levied not in excess of 50c.

CALDWELL—The collection of county and municipal taxes for 1931 and all prior years is barred, except where foreclosure proceedings have been instituted.

CAMDEN—Penalty for delinquent taxes and tax sale certificates is fixed at ½% per month; this includes outstanding certificates held by the county.

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CARTERET—The time is extended for the payment of special assessments in *Morehead City*.

CATAWBA—The county and municipalities therein are authorized to accept deeds for real estate in payment of taxes and special assessments in lieu of foreclosure; the county and municipalities may accept a deed for only a portion of taxpayer's real estate in full settlement if the tax liens do not exceed the tax value of such portion.

CHATHAM—Tax sales of the county, municipalities and taxing districts held *during* the years 1941 and 1942 are validated (caption reads "taxes . . . *for* the years 1941 and 1942") whether held on the dates prescribed by law or on other dates.

COLUMBUS—(1) County and municipalities are authorized to adjust penalties, interest and costs on taxes for 1937 and prior years.

(2) The requirement that all tax sales in the county be held on the first Monday in October is repealed. (Ch. 327, Public-Local Laws 1935).

CUMBERLAND—An annual license is required of professional bondsmen. Governing bodies of county and municipalities are authorized to fix the amount of tax not in excess of the amount authorized by the State Revenue Act. Fees to be charged by bondsmen are regulated (not to exceed 5% of bond penalty, except that a minimum fee of $5 is allowed).

DAVIDSON—An election on the question of levying a tax of not less than 3c nor more than 5¾c on the $100 valuation to be used for the support of the public library is provided for.

DURHAM—The county and city of Durham are authorized to accept a deed in payment of taxes and assessments in lieu of foreclosure.

FORSYTH—A levy of not over 10c on the $100 valuation of property, and not more than 15c on the poll for the support of the Forsyth County Tubercular Hospital is authorized. Prior levies are ratified. (As the county already levies a poll tax of $2, the constitutional limit, the authorization for a 15c special capitation tax may be invalid.)

FRANKLIN—(1) The county attorney may not charge any fee for bringing suit

on delinquent taxes nor any commissions except such as may be approved by the court. In foreclosure sales, the county attorney, auditor, or one of the county commissioners is to be named as commissioner to hold the sale, and no commissions are to be charged.

(2) *Louisburg*, *Bunn* and *Youngsville* were given a schedule of poll and property tax discounts and penalties. Discounts: 2% to the end of October; 1% during November; payable at par in December, January and on February 1. Penalties: after February 1, to be added at rate of 1% per month or fraction until they aggregate 6%, after which ½% per month or fraction is to be added until paid or included in tax-sale certificates which will bear interest at 6% on the principal, penalties and costs which are to be included therein.

GASTON—Provision is made for holding an election on the question of continuing the levy for the supplement for the *Victory School District* in view of the State-supported ninth school month.

GUILFORD—(1) Costs of $6.50, to cover the Clerk of Superior Court's costs and 50c for stenographer, is to be assessed by the clerk upon entering final judgment in tax and special assessment foreclosures, where there is no trial or appeal to the Superior Court.

(2) The county is authorized to accept deeds for real estate in payment of taxes due thereon in lieu of foreclosure.

(3) The county is authorized to levy an additional tax not to exceed 4c on the $100 valuation for the benefit of the Greensboro Administrative Unit, to be used for plant maintenance and to pay fixed charges. This levy is subject to approval of the State Board of Education.

(4) *Greensboro* is authorized, at any time prior to July 1, 1945, to extend the time for payment of special assessments, extended installments to be payable in not more than 10 annual payments. All assessments in the same assessment roll are to be extended, with the privilege of prepayment.

HALIFAX—*Roanoke Rapids* is authorized to raise its tax rate from 50c to 60c on the $100 valuation.

HARNETT—The duties of delinquent tax collection are transferred to the tax collector who is given the same power as sheriffs with respect to delinquent taxes. The tax collector is to be paid not in excess of $15,000, to cover his salary, clerk hire, and all expenses of his office.

HAYWOOD—Uncollected *Canton* taxes for the years 1927-1936 inclusive, except where suits have been instituted, are nullified. The Act recites that the cost of keeping books is greater than the amount of uncollected taxes.

HENDERSON—(1) The county commissioners are authorized to revalue real and personal property on which taxes are delinquent and to settle delinquent taxes. The commissioners may employ an assistant to the tax collector at a salary of $100 per month plus commissions not to exceed $100 per month. Taxes for 1930 and prior years may be released when the cost of collection will equal or exceed the amount outstanding.

(2) A special tax of ½% is authorized, to be used toward retirement of the debt of *Hendersonville Hospital Association*.

HERTFORD—Ch. 166, Public-Local Laws of 1941, exempting fox hounds from taxation, is repealed. (Under the exemption, practically all dogs in the county had become fox hounds.)

HOKE—A tax rate for *Raeford* not to exceed $1.33 1/3 on the $100 valuation for all purposes is authorized.

IREDELL—Ch. 431, Public-Local Laws of 1939, is repealed. The Act provided for the segregation of cotton in bales for the purpose of taxation, and a lower rate than for other property was authorized. Cotton stored in bonded warehouses within 3 months of the tax listing date was considered "in transit" and the commissioners were authorized to exempt such cotton from taxation. Municipalities were forbidden to levy a higher rate on cotton than that fixed by the county commissioners.

JACKSON—The commissioners are authorized to levy a special hospital tax of not over 1c on the $100 valuation, to be applied toward the support of a non-profit hospital to be designated by the commissioners.

JOHNSTON—An additional penalty upon delinquent personal property taxes, to defray the expense of collection and publishing a delinquent list, is authorized—not to exceed amount charged for advertising and selling real estate for taxes.

MECKLENBURG—The statute of limitations for actions on special assessments of the City of *Charlotte* is increased to 15 years from default in the payment of an assessment. This Act will not revive actions already barred.

NASH—The board of aldermen of *Rocky Mount* is authorized to remit, cancel or settle liens derived from sidewalk, curb, gutter or paving assessments against church and parsonage property.

NEW HANOVER—Taxpayers owing the county and the *City of Wilmington* taxes for 1940 and prior years are given until Jan. 31, 1944, to pay such taxes, together with a flat 10% added to the principal amount as interest. If such taxes are not paid by Jan. 31, 1944, interest is to be added at the rate of 6% from February 1 for each year following the year for which the taxes were levied. For 1941 and 1942, taxes bear interest at 6% per annum.

NORTHAMPTON—(1) A special library tax of not more than 1c on the $100 valuation is authorized.

(2) *Garysburg* is authorized to hold sales for delinquent taxes for the years 1939, 1940, 1941 and 1942 not later than the first Monday in July, 1943. Sales for taxes are validated for other years in which sales have not been held.

ONSLOW—(1) The county commissioners are authorized in their discretion to revalue and adjust all real estate and personal property valuations during 1943.

(2) *Jacksonville* is authorized to levy a tax of not more than 1c on the $100 valuation for the establishment and maintenance of cemeteries.

RANDOLPH—The county commissioners are authorized to complete in the fiscal year 1943 the quadrennial assessment begun in 1941. Appraisals heretofore made are to be used.

ROBESON—Sales of land for taxes made by the county and municipalities therein made during 1941 and 1942 are validated, and settlements and adjustments of taxes heretofore made by the governing bodies are validated.

ROWAN—The Board of aldermen of *East Spencer* may, in its discretion, collect, compromise or settle all taxes for the year 1940 and prior years.

RUTHERFORD—The town of *Lake Lure* is authorized to levy a special tax to purchase and retire Lake Lure bonds. The Act does not ratify any bond issue.

SAMPSON—(1) The authority conferred by Ch. 218, Public-Local Laws of 1941 to levy a special tax for repairs to the jail and other public buildings is extended to the years 1944, 1945, 1946, 1947 and 1948.

(2) Subject to the approval of the Director of Local Government, the county may levy an additional tax not in excess of 5c on the $100 valuation for the expense of: the quadrennial assessment, holding courts in the county, and prisoner and jail maintenance.

SCOTLAND—A special levy of 10c on the $100 valuation is authorized for the special purpose of: fire prevention and control, fire equipment, salaries and expenses of the farm agent and other extension services and of the accountant's or auditor's office, and the expense of auditing county departments.

SURRY—(1) The county commissioners are authorized to appoint tax collectors for various districts in the county, to set their salaries and to provide offices in the districts. Municipalities are authorized to enter into collection agreements with the county collector in the district embracing the town, costs of collection to be prorated.

(2) The county, the Town of *Mount Airy*, and the Town of *Elkin* are given a new schedule of discounts and penalties: taxes due on first Monday in October; 2% dis-

count through October; 1% discount in November; payable at par between Dec. 1 and Feb. 1, after which penalties accrue at 1% per month or fraction thereof until they aggregate 6%, then a penalty of ½% per month or fraction thereof is added. Tax sale certificates bear interest at 6% on the principal, interest and costs.

TRANSYLVANIA—(1) The county is authorized to levy a special tax for the special purpose of paying the expenses of the offices of the County Accountant, Farm Agent, Home Demonstration Agent, and the expenses of forest fire protection.

(2) The County and the Town of *Brevard* are authorized to settle taxes for 1934 and prior years upon property which has been over-assessed, upon payment of an amount agreed upon in cash, plus current taxes.

(3) Taxes more than two years delinquent are appropriated to the general fund.

(4) The County and the Town of *Brevard* are authorized to enter into a two-year agreement, renewable for two-year terms, for the joint collection of county and Town taxes. The county tax collector would collect for both.

WAKE—County Commissioners are authorized to exempt real estate taken for military purposes from 1943 taxes where title had not passed by January 1, 1943.

WAYNE—(1) The county and municipalities therein are authorized to levy a tax on professional bondsmen in an amount not in excess of that allowed by the Revenue Act. Fees of bondsmen are regulated, and appearance bondsmen are required to deposit with the Clerk of the Superior Court a bond in the amount of $1,000.

(2) The County Commissioners are authorized to turn into the general fund all collections of taxes for 1935 and prior years.

WILSON—The Commissioners of the Town of *Wilson* are authorized in their discretion to adjust and settle past due assessments for street paving and sidewalks.

COUNTY AND MUNICIPAL FINANCES

In addition to the numerous local Acts dealing with county and municipal taxes, nearly three dozen Acts were passed with respect to other phases of local finances. Of these, approximately one-third are concerned with bond issues of counties, town drainage and school districts.

Bond issues were authorized or validated, or the time for issuance was extended, in the following counties, cities and towns: *Brunswick, Buncombe, Cumberland* (drainage), *Montgomery* (a provision making it unlawful for any municipality to issue bonds without submission to a popular vote is repealed), *Onslow* and *Randolph* Counties (sec. 9 of ch. 623, Public-Local Laws of 1927, "An Act to Fund the Floating Indebtedness of *Randolph* County," is repealed), and the towns of *Candor, Franklinton, Louisburg, Hendersonville* (school district), *Lake Lure* (provision made for levying tax to retire bonds), *Murfreesboro*, and *New Bern*.

In *Duplin* County, the balances in the Warsaw and Island Creek special district road funds are transferred to the county general fund. Other transfers to general funds are effected in *Montgomery* (collections of taxes more than 5 years delinquent), *Wayne* (tax collections for 1935 and prior years), *Transylvania* (commissioners authorized to transfer collections of taxes more than two years delinquent, and unexpended balances in any fund except the debt service fund), *Onslow* (tax collections for 1934 and prior years), *Polk* (tax collections for 1937 and prior years), *Madison* (collections of taxes more than three years delinquent to the general and school fund), and *Carteret* (tax collections for 1935 through 1938 to the debt service fund). In *Rutherford* County, all juror and witness fees unclaimed for three years are to be turned over to the school fund.

ABC funds and enforcement were the subjects of five Acts, affecting the counties of *Durham, New Hanover, Pasquotank, Vance* and *Washington*. In *Halifax* County, where the board of county commissioners had acted as the ABC Board, a new 3-member board is created, to be composed of two members not on the board of county commissioners and one county commissioner. All are to be appointed for two-year terms by the General Assembly. And in *Moore* County, provision is made for an election on the question of continuing operations of the liquor stores in *Southern Pines* and *Pinehurst*, on petition of 15% of the qualified voters of the county. In *Wayne* County, the commissioners are authorized to remit 1943 taxes on real estate which the Federal government took possession of for military purposes prior to January 1, 1943, pursuant to contracts prior to that date, if deeds are executed before July 1, 1943 (a state-wide Act has the same effect). *Hertford* County is no longer exempt from the provisions of C. S. 1334 which requires the publication of an annual statement of claims and revenues. In *Pasquotank*, the commissioners are authorized to make additional appropriations after the adoption of the budget. The action of the commissioners of *Yadkin* County in investing certain sinking funds in real estate in *Forsyth* County is validated. And *Craven* County is brought under the provisions of C. S. 6126(a) which provides that funds paid by the National Forest Commission shall be paid to the county treasurer for the equal benefit of the road and school funds.

SCHOOLS

(1) School Boards

Of the twenty-seven local bills passed by the General Assembly dealing with schools, fifteen bills had to do, in one way or another, with various school boards: county boards of education, boards of trustees of city administrative units, or school committees.

The *manner of election or appointment* of the board of education or board of trustees was provided in *Graham* County, *Burke* County, *Moore* County, *Cumberland* County, *Iredell* County, and *Jackson* County, also in *Hickory* and *Lexington*. And the power to fill vacancies in township school boards in *Graham* County was vested in the county board of education. In *Yancey* County provision was made for the appointment by the board of education of a school committee of three members for each district in the county. Bills naming board members were passed for the *Tryon-Saluda Administrative Unit* and the *Andrews Unit*.

The *compensation* of board members was fixed in *Alexander* and *Gates* Counties. And the *term* of two members of *Beaverdam* school committee, in *Haywood* County, was extended.

(2) Miscellaneous school bills

Local supplements. The special election granting authority for the *Washington City Administrative Unit* to provide the ninth month of the school term was repealed; the tax levy under this authority was reduced and the levy for the support of the ninth month was prohibited. An election was authorized in the *Victory School District* in *Gaston* County to determine whether the tax to support the nine-months term shall continue to be levied.

Conveyance of school property. The conveyance of certain school property in the village of *Shawboro* in *Currituck* County was authorized, the property to be used for public purposes. The conveyance of the Powell's Point school property in *Currituck*, authorized in 1941, was further regulated by provision that the property shall revert to the Board of Education if it ceases to be used as a community center, etc. The *Greensboro Administrative Unit* was authorized to sell unnecessary public school property and dispose of the proceeds.

Finances. School taxes in the town of *Canton* for the years 1930 to 1934 were released. $230,000 in outstanding bonds of the *Hendersonville Graded School District* were validated, and the city was authorized to refund the bonds.

Boundaries. A bill state-wide in terms, but amended to apply to *Iredell* County only, provided that whenever the corporate limits of a town are extended, the boundaries of the city administrative unit shall likewise be extended so that the boundaries

of the unit would always be coterminous with the city limits. A boundary dispute over the boundaries of the *Troy* school property was settled by authorizing the county board of education to execute a quitclaim deed to the disputed property.

Teachers. In *Tyrrell* County the appointment of a person not fully meeting the educational qualifications as school superintendent was authorized. The Act creating a pension system in *New Hanover* County was amended to provide that payments to persons eligible to receive benefits under the State Teachers' and State Employees' Retirement System should be reduced by the amount received through the State system; the time of making payments under the local Act was also amended.

In *Halifax* County, all schools, including title to all school property, were placed under the supervision of the county board of education.

COURTS

Changes were made in many counties and towns of the State by local acts affecting the salaries, terms, and the methods of selecting court officials. Measures dealing with varied details in the functioning of the inferior and superior court systems in the counties and towns of North Carolina appear in the local legislation for 1943.

(1) Officials of Inferior Courts

Salaries. The pay of the judges, prosecuting attorneys or solicitors, and clerks of county or municipal courts was regulated in the following counties and towns: *Rockingham* (Reidsville Township Court), *Durham, Duplin, Columbus, Coldwell, Warren, Robeson, Edgecombe, Gates, Chowan, Bladen, Camden, Union, Brunswick, Surry, Currituck* and *Anson.*

Terms. The terms of office of recorders and solicitors was extended, reduced or otherwise fixed in *Surry* (Mt. Airy Township and Elkin Township Courts), *Duplin Iredell, Gates, Brunswick* and *Currituck* Counties.

Selection. The method of selection of the judge and prosecuting attorney of the county court was provided for *Duplin* and *Richmond* Counties, while the method for removal of county court officials was provided for the recorders' courts of *Robeson* County; any vacancies created under the provisions of the latter Act are to be filled by the county commissioners. Provision for the appointment of *pro tem* court officials in *Robeson* County, and for filling vacancies, either permanent or temporary, in *Gates* County.

(2) Miscellaneous measures dealing with inferior courts

The jurisdiction of the *Statesville* mayor's court was extended to include all territory within one mile of the city limits, and a new schedule of costs was established for that court and the *Chowan* County Court. Jury fees were regulated in *Robeson* and *Washington* Counties. Jury trials in the recorder's court were regulated in *Tyrrell* and *Warren* Counties.

The jurisdiction of the *Kings Mountain* and *Elkin* recorders' courts, if they are established, was set out. The *Franklin* County court was denied jurisdiction of cases coming within the jurisdiction of Justices of the Peace until six months after the commission of the offense. The recorders' courts of *Nash* and *Bertie* Counties were given concurrent jurisdiction with the Superior Court in divorce cases. Provision was made for the removal of causes from one recorder's court to another in *Robeson* County, and for removal of suits instituted by the City of *High Point* from the High Point Municipal Court to the Superior Court.

The collection of fees in the *Union* County court was regulated; and the terms (days of meeting) and jurisdiction of the *Greensboro* Municipal Court were fixed.

(3) Superior Courts

Terms. The Superior Court schedule was set out or changed for the following counties: *Columbus, McDowell, Avery, Onslow, Union, Camden, Guilford* and *Davidson, Wake* and *Franklin.* Provision was made for the cancellation of any term of court in *Nash* County if deemed necessary by the Clerk and resident judge. And in *Moore* County, some terms were cancelled and it was provided that uncontested divorce cases may be tried at any criminal term with the consent of the presiding judge.

Grand jury terms. Bills were passed for the purpose of staggering the terms of grand jurors, so as to have nine experienced jurors serving at all times, in *McDowell, Gates* and *Caldwell* Counties. And authority was granted for members of the *Franklin* County grand jury to be chosen later if regularly scheduled terms of court are not held.

Jury fees. The pay of jurors was fixed in *Durham* and *Martin* Counties.

Court reporters. Johnston and *Greene* Counties were exempted from the provisions of the Consolidated Statutes regulating the appointment of court reporters, and the method of selecting such reporters was provided.

MISCELLANEOUS LOCAL ACTS AFFECTING COUNTIES

Added to a large body of local Acts directly affecting specific county offices and functions, are numerous Acts dealing with a wide variety of subjects, running from the prevention of hog cholera to the establishment of law libraries. The more noteworthy of these local Acts are summarized herewith.

Agriculture—Agricultural tenancies—the period constituting the yearly tenancy and the obligation of the tenant to perform—were regulated in *Johnston, Hoke, Brunswick* and *Davidson* Counties. Acts aimed at controlling hog cholera were passed for *Currituck, Pasquotank, Tyrrell* and *Hyde* Counties. Stock laws were passed for *Caswell* and *Nash* Counties. And the sale of livestock at public auction was regulated in *Mecklenburg* County.

Dog damages—The liability of the county for damages to person or property by dogs was regulated in *Warren, Bertie, Rowan, New Hanover* and *Rutherford* Counties.

Game—The hunting of foxes was regulated in *Harnett, Wake, Gaston* (Southpoint Township), *Alleghany* and *Montgomery* Counties. An Act to protect wild turkeys was passed for *Wake* County.

The sale of County property is regulated in *Graham* and *Brunswick* Counties, where it must now be sold only at public sale after due notice.

Libraries are the subject of three acts: the law of 1931 with respect to the *Asheville* Library Board is amended to declare the board to be an administrative agency of the city, and the terms of its members are fixed. The *Buncombe* County Law Library will be helped to the extent of 25c out of the costs collected in each case in the Asheville police court, except where only one-half the costs are assessed, when the contribution will be 15c. A law library is established for *McDowell* County, and a schedule of additional costs in the Superior Court and in the Recorder's and Mayor's Courts of *Old Fort* and *Marion* is provided for its support.

Hospitals are the subject of two Acts affecting *Alamance* County, and the compensation and terms of the board of trustees of the *Haywood* County Hospital are set.

Miscellaneous Acts—Other local Acts of interest are those which "make it unlawful for any person to injure fire-fighting apparatus in *Harnett* County"; authorize *Rowan* County and the City of *Salisbury* to spend up to $2,500 per year "to provide for the systematic advertising of the resources and advantages of Rowan County"; provide for turning over the *Rockingham* golf course and club house to the newly created *Richmond* County Country Club Commission, to be operated for the benefit of the citizens of the county; provide for the establishment by joint action of the governing bodies of *New Hanover* County and the City of *Wilmington* of a "special committee on post-war planning for economic stability"; provide for the appointment of three rural policemen in *Brunswick* County, to be paid not less than $50 nor more than $75 per month each; authorize the *Guilford* County Commissioners to offer rewards for fugitives from justice; regulate the disposition of stray animals by the *Raleigh* chapter of the S. P. C. A.; validate the inclusion of *Wayne* County in the Eastern Carolina Regional Housing Authority; prohibit the operation of pool tables in *Yadkin*

County between 11:30 P. M. Saturday and 6:00 A. M. Monday; and provide an ascending scale of punishment for first, second and third convictions of public drunkenness in *Harnett, Mecklenburg, Montgomery, Nash, Pender*, and *Wilson* Counties. Of interest also is an Act "to prevent public drunkenness in *Currituck* County," which makes it a misdemeanor for any person "to be found drunk on the public highway, or at any public place or meeting in Currituck County." Any justice of the peace may issue a warrant upon a complaint being made, and if no officer is available to execute the warrant, "he shall deputize any citizen to execute the same."

MISCELLANEOUS LOCAL ACTS AFFECTING CITIES AND TOWNS

North Carolina has three new "cities," and by the same three Acts it lost three "towns." It is now the "City of Kings Mountain," the "City of Albemarle," and the "City of Morganton." In the number of incorporated places the state suffered a net loss of one: two new towns, Aquadale in Stanly County and Harrell's Store in Sampson County, were created, while the corporate existence of three towns, Nebo in McDowell County, Royall Cotton Mills in Wake County, and Mooresboro in Cleveland, was brought to an end. Benson, in Johnston County, received a new charter, and the charters of the following towns were amended to the extent indicated below:

Warrenton, in Warren County (mayor to receive $75 per month, commissioners to receive $5 for regular and $4 for not more than one special meeting per month. Provision made for meeting place and the disposition of certain fees.)

High Point, in Guilford County (city authorized to require abutting property owners to pave and repair sidewalks; also authorized to permit additional appropriations to be made after the adoption of the budget. The city is further authorized to accept deeds in payment of taxes, and sales of city owned property are regulated.)

Lillington, in Harnett County (municipal property may be sold at public or private sale and the proceeds may be used in the discretion of the mayor and commissioners).

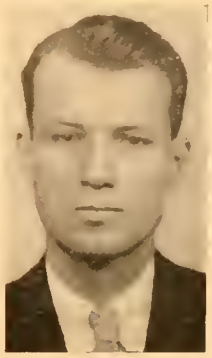
Statesville, in Iredell County, *Goldsboro* in Wayne County, and *New Bern* in Craven County were authorized to hold elections on the question of extending their boundaries. Provision was also made for the extension of the corporate limits of *Greenville* and *Canton*. *Jacksonville*, in Onslow County, was extended to take in the development known as Overbrook, and the town was divided into four political wards. *Kings Mountain* in Cleveland County had a defect in the description of its boundary corrected, and the size of *Franklin* in Macon County was increased through the repeal of an Act of 1917 which excluded a number of farms from the corporate limits. On the other hand, the corporate limits of *Rhodhiss*, lying in Burke and Caldwell Counties, were reduced, and the town is permitted to maintain a jail outside of its new corporate limits and to exercise police jurisdiction one mile beyond the corporate limits. And an Act of 1941, which would have extended the corporate limits of *Gastonia* is repealed.

The police powers were extended a mile beyond the corporate limits of *Canton* (as to the regulation of for-hire vehicles and also as to town property outside the corporate limits), *Mount Olive*, in Wayne County (police to have same power as the sheriff and the constables in serving process and precepts and to receive the same fees), *Huntersville*, in Mecklenburg County, and *Mooresville*, in Iredell County (jurisdiction extended for two miles beyond corporate limits).

Compensation of various officials was set with respect to the following municipalities: *Albemarle* (compensation of each new board of commissioners to be fixed by the preceding board and the mayor not exceeding $300 per year), *Maiden* (mayor to receive $150 per year; aldermen, $5 for each regular and $1 for each special meeting, but not to receive more than $7 for any month), *Windsor* (mayor's salary increased from $300 to $1,500 per year), *Aulander* (mayor to receive $100, commissioners $60 per year), *Wilmington* (constables are taken off a salary basis), *Morganton* (aldermen to receive $5 for regular and $2 for special meetings, but not over $7 for any month), *Fairmont* (mayor to receive $300, commissioners $100 per year), *Roxboro* (charter amended to permit a member of the board of commissioners to serve as treasurer and clerk and to receive such compensation as the board may fix), *Kinston* (mayor to receive not over $1500, aldermen not over $400 per year), *Spencer* (aldermen may be paid as much as $100 per year, instead of the maximum of $50 under the old law), and *Oxford* (turnkey fee increased to 75c and town clerk to act as Clerk of the Mayor's Court). Salaries of employees of *Elizabeth City* are to be fixed by the board of aldermen.

Hereafter, elected officers will take office on July 1 following their election in *Spencer, East Spencer*, and *Rockwell*. In *Winterville*, the mayor will be elected for a two-year term, and the commissioners for three-year terms which will be staggered. In *Hertford*, an election is authorized on the question of extending the present two-year terms of the mayor and commissioners to four years. And in *Creedmoor*, the number of commissioners are increased from three to five.

Miscellaneous—Rural Hall is authorized to purchase fire-fighting equipment from the proceeds of water sales. The line of



JOSEPH REID

of the Staff of the Institute of Government

Trade Street in the Town of *Tryon* is corrected. The charter of *Hickory* is corrected to permit voters living outside of the town but within the school administrative unit to vote for school trustees. *Property sales* are regulated in *Bessemer City* (property acquired at tax foreclosures may be sold at either public or private sales), *Elizabeth City* and *Pasquotank County* (may sell tax foreclosed property privately) and *Elm City* (sales which were not held pursuant to proper advertisement or in accordance with C. S. 2688 are validated). The time for paying *special assessments* is extended in *Morehead City*; and in *Charlotte*, all special assessments are validated. The *civil service* acts of *Wilmington* and *Fayetteville* were amended, as were the following local *pension* or *retirement systems*: The *Wilmington* Firemen's Pension Fund, the *High Point* Fire Department Pension Fund, the *Salisbury* and *Rowan* County Peace Officers Relief Fund, the *Charlotte* Fireman's Retirement Fund, and the *Greensboro* Police Retirement Fund. *Forest City* was exempted from the provisions of section 9 A of the Local Governmental Employees' Retirement Act which requires the submission to a popular vote on the question of participating in the system. New retirement systems, based on the actual reserve plan and providing for contributions by both the employing unit (5% plus appropriations to amortize accumulated liability) and the employees (4% of salary), were created for *New Hanover County* and the City of *Wilmington*.

Reidsville is authorized to exercise the power of eminent domain with reference to the development of its airport, and similar powers are extended to *Pitt* County and the City of *Greenville* with reference to the enlargement of the Pitt-Greenville Airport, and also to *Carteret* County. The 1941 Act creating the Greensboro-High Point-Guilford Airport Authority is amended and $80,000 of the authority's bonds, dated July 1, 1942, are validated.

An Airport Commission is authorized for *Gastonia*, and provision is made for a popular vote on the question of issuing bonds for an airport and levying a tax to provide for its maintenance, and a *Richmond* County Airport Commission is established.

Bulletin Service

Recent opinions and rulings of the Attorney General of special interest to local officials

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Prepared by the STAFF of the INSTITUTE OF GOVERNMENT

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I. AD VALOREM TAXES.

B. Tax Levy.

1. Time of the tax levy.

To Robt. T. Wilson. Inquiry: May a Board of County Commissioners pass a levying resolution fixing the date of the county tax levy as the first Monday in July?

(A.G.) I call your attention to Consolidated Statutes Sections 1334, Subsections 57, 59, 60, 61, 62 and 63 which require that certain things be done before the passage of a tax levying resolution. Section 1334, Subsection 61, among other things, says: "As soon as practicable after the first Monday in July, and before any levy of taxes is made, the county accountant shall submit to the board a supplementary budget showing . . ." It will be observed that the supplementary budget is to be submitted after the first Monday in July, and before the levy of any taxes is made. I am, therefore, of the opinion that the Board of Commissioners may adopt the tax levying resolution any time after the first Monday in July if the Board has complied with the sections referred to prior to the tax levying date.

To Rivers D. Johnson. Inquiry: Can a municipality enforce its lien for taxes against property which was sold in a prior suit by the county, to which the municipality was not made a party?

(A.G.) It is my opinion that the lien of a municipality for taxes duly levied against property would not be barred by a tax foreclosure action instituted by the county to which the municipality had not been made a party. See Washington County v. Gaines, 221 N. C. 324; Hill v. Street, 215 N. C. 312; Beaufort County v. Mayo, 207 N. C. 211. If the municipality had been made a party, its lien for taxes would have been barred by the county foreclosure action. See Orange County v. Jenkins, 200 N. C. 202.

C. Matters Affecting Tax Collection.

72. Levy on personal property.

To W. B. Matheny. Inquiry: May a tax collector proceed by levy or attachment on personal property where the lien on the real estate of the taxpayer has been sold and a certificate of sale issued to the county?

(A.G.) Section 1713 of the Machinery Act of 1939, as amended, provides that the tax collector may proceed against personal property at any time after the taxes are due and before the filing of a tax foreclosure complaint or the docketing of a judgment for taxes. The section further provides that every official charged with the duty of collecting taxes, current or delinquent, shall have the power and authority to proceed against personal property in the manner provided. It is my opinion that during the period between the time the taxes become due and the institution of the foreclosure action or the entry of a judgment, the remedies provided are available, and would not be affected by the fact that the tax liens had been sold and certificates of sale issued to the county.

D. Levy of Special Taxes.

16. For erection and maintenance of a maternity hospital.

To Walter G. Sheppard. Inquiry: Is the erection and maintenance of a maternity hospital by the county a necessary expense within the meaning of the Constitution of North Carolina so that the county commissioners may levy taxes for such a purpose without a vote by the people of the county?

(A.G.) You say that, as county attorney, you have advised the Board that it is not a necessary expense within the meaning of the Constitution and that the Board cannot levy taxes for the purpose of the erection of such a hospital. I concur in your opinion. Sections 7255 through 7284 provide methods whereby counties and towns may provide the necessary funds for the erection, maintenance and operation of municipal hospitals, and a vote of the people is required before such provision can be made. It certainly occurs to me that if a vote of the people is required to enable the county to erect and maintain a hospital for general purposes, which would meet the needs of all the people of the county, it cannot be successfully argued that the county could erect or maintain a maternity hospital, which would only serve the needs of a class of citizens of the county, without a vote of the people. (Citing Palmer v. Haywood County, 212 N. C. 284, and Nash v. Monroe, 198 N. C. 306.)

III. COUNTY AND CITY LICENSE OR PRIVILEGE TAXES.

15. Privilege license on businesses, trades and professions.

To Edwin Gill. Inquiry: Is a ten dollar license fee levied on each of three games under section 131 of the Revenue Act properly collectible if the concessions are run at the location only for the Beach season.

(A.G.) Section 131 imposes a license tax for the privilege of operating certain amusements "at a permanent location." It is necessary to determine the meaning of the word "permanent." Clearly it is the opposite of transient or shifting; and yet it carries no idea of absolute, but rather of practical continuity. Its meaning must be ascertained from the context of the law in which it is used. (For citations see 48 Corpus Juris at p. 919 and Madison Coal Co. v. Hayes, 215 Ill. 625.) In my opinion, an amusement device or concession operated at a permanent location under 131 of the Revenue Act is one which is operated at one place as long as the demand exists. It does not move from place to place for weekly or monthly stands. It is a business venture which is established in one place with the intention of staying there until circumstances are such that its continued operation at that location becomes unprofitable. The fact that it may stay only a month or less in one place does not exclude it from being an amusement operated at a permanent location within the meaning of the Statute. This view gains weight when section 131 is considered in its relationship to section 106 of the Revenue Act which imposes a license tax on amusement ventures, traveling from place to place.

To P. H. Wilson. Inquiry: Does a town have authority to classify and separately tax the various activities embraced within Section 153 of the Revenue Act? May the town levy separate license taxes upon dealers in auto accessories and supplies, filling stations (per pump), and garages?

(A.G.) C. S. 2679 provides that municipalities may annually "levy a tax on all trades, professions and franchises carried on or enjoyed within the city, unless otherwise provided by law . . ." It is my opinion that under those sections of Schedule B of the Revenue act authorizing levies upon such activities by local units, the general power to tax under C. S. 2677 is limited to those activities, and therefore a town would not have authority to classify the activities listed in Sec. 153 of the Revenue Act and levy a tax on any of the aggregate of such activities which is in excess of the tax authorized by Sec. 153.

72. License tax on the sale of tires, bicycles and radios.

To W. L. Langston. Inquiry: Are cities authorized to impose license taxes for the sale of tires, bicycles and radios in excess of the taxes on the same which are now levied by the state?

(A.G.) Section 192 of the Revenue Act, enacted at the 1943 session of the General Assembly, makes substantial reductions in the amount of certain license taxes which the State imposes under Schedule B, among which are license taxes on the sale of tires, bicycles and radios. However, the sixth paragraph of that section makes it clear that counties, cities and towns are not required to reduce their license taxes levied on the sale of such products.

IV. PUBLIC SCHOOLS.

F. School Officials.

3. Provision in budget for capital outlay.

To C. Reid Ross. Inquiry: May a County Board of Education include, in its budget request, capital outlay funds for new buildings, in view of the fact that the war situation might prevent the use of such funds

during the present emergency? Would the Board of County Commissioners be authorized to approve such request for funds and levy taxes to provide such funds?

(A.G.) Section 15 of the School Machinery Act of 1939, as amended, provides for the filing of a capital outlay budget by each county or city administrative unit subject to the approval of the tax levying authorities and the State Board of Education. The erection of new school buildings is an item which is to be included in the capital outlay fund. It is true that during the present emergency it is almost impossible to secure sufficient priorities to erect new school buildings. However, no one can predict how long the present emergency will continue to exist and, this being true, it is my opinion that the fact that it does exist would not prevent the school authorities and the tax levying authorities from proceeding with the capital outlay levy on a nominal basis. It is my opinion that the Board of County Commissioners of your county would be authorized to make a levy for the construction of new buildings if the request for the funds is included in the budget and approved by the tax levying authorities and the State Board of Education. Of course, the matter as to the advisability of making the levy is one for consideration by the County Board of Education, the tax levying authorities, and the State Board of Education.

50. Teacher's resignation.

To J. B. Eubanks. Inquiry: May a teacher or principal who resigns less than thirty days prior to the opening of school without the consent of the local committee, but with the consent of the county or city superintendent, be debarred from teaching within the state by the local committee? Would the consent of the superintendent make such teacher eligible for employment?

(A.G.) Section 12 of the School Machinery Act of 1939, as amended, provides in part that principals and teachers desiring to resign must give not less than thirty days written notice prior to the opening of school to the head of the administrative unit, and that any principal or teacher violating this provision may be denied the right to further service in the public schools of the state for a period of one year unless the county board of education or the board of trustees of the administrative unit waives the penalty by appropriate resolution. In order to be sure that the penalty could not be inflicted, it would be necessary that such resolution be adopted by the governing body of the administrative unit employing the principal or teacher involved.

58. School Bus Drivers.

To W. R. Jones. Inquiry: Please advise if there is any provision for taking care of damages done by a regular driver of a school bus to property negligently damaged by him while in the regular operation of the bus?

(A.G.) The only provisions of our statutes providing for paying of personal injuries or damages sustained in connection with the operation of a school bus are Sections 5780(78) through 5780(83a) of the Consolidated Statutes. These sections provide only for compensation to school children injured or killed in school bus accidents. Of course, the operator of the bus would be personally liable to the same extent that he would be liable for the negligent operation of any other motor vehicle.

M. Ad Valorem Levy, for Supplemental School Funds.

2. Purposes for which supplement may be used.

To Marcus B. Caldwell. Inquiry: May funds provided by the local supplement be used for the purpose of establishing a Chemistry Department, buying gymnasium equipment, showers, playground equipment and other things of this nature?

(A.G.) Section 14 of the School Machinery Act, under which the tax was voted, authorizes the school governing board with the approval of the tax levying authorities and the State Board of Education, "in order to operate schools of a higher standard than that provided by State support" to supplement the funds available from state and county allotments. The Act does not specify any further what is meant by "operate." I cannot express any opinion which I am sure is correct as to what limitations should be placed on the wording of the Act. Conceivably the language might cover any of the things you have mentioned, if they were found by the board of trustees of the county administrative unit, the tax levying authorities and the State Board of Education as desirable and necessary for that school. Whether such expenditures would be justified would rest within the discretion of the board of school trustees, the tax levying authorities and the State Board of Education.

To John R. Jenkins, Jr. Inquiry: May a Board of County Commissioners levy an ad valorem tax for operation of lunch rooms in the schools of the county, such lunch rooms to be operated only in the schools of the county which raise funds from the citizens of the community to match the amount given by the county?

(A.G.) Section 30 of the School Machinery Act of 1939 provides for the operation of lunch rooms in schools when such is deemed advisable by the trustees or school committee and where the same may be deemed necessary because of the distance of the school from places where meals may be easily obtained. The section contains a prohibition of the use of funds provided by the State for the purpose of maintaining the lunch rooms. In view of this express grant of authority and the prohibition of use of State funds, I am of the opinion that a tax could be levied for the operation of lunch rooms where the same are necessary. This item should be included in the school budget if the lunch rooms are established. But it would seem that the lunch rooms could be authorized only under the terms expressed in the statute, that is, when deemed advisable, and where the distance of the school from places where meals are served is so great as to render it necessary. Thus, it would seem that the fact that the citizens of the community in which a school is located did or did not match the money paid by the county would be immaterial. In other words, the test to be applied is whether the establishment of the lunch room is advisable and necessary and not whether the school community will advance money.

2. Purpose for which supplement may not be used; and

4. Discretion to change the tax rate.

To Clyde A. Erwin: (A.G.) (1) Where the notice of election and resolution adopted by the Board of County Commissioners provide for an election to vote on the question of levying a tax for the purpose of supplementing the regular eight months school term, and does not limit the levy to the purpose of providing for a ninth month, it is my opinion that the tax up to the amount voted may be legally levied by the Board of County Commissioners to provide the sum in the supplemental budget approved by the Board of County Commissioners and the State Board of Elections.

(2) The Board of Commissioners must approve the supplemental budget and it is within their discretion as to the amount of tax they will levy, up to the limit provided in the election. I am therefore of the opinion that the Board of Commissioners may change the tax rate without permission from the school trustees.

(3) I am further of the opinion that funds provided by the special levy should not be spent for the upkeep of school buildings.

3. Discretion in continuing the levy.

To Robert A. Freeman. Inquiry: (1) Would the Board of County Commissioners be justified in levying a supplemental tax for a city administrative unit if the proper authorities make a proper request therefor? (2) If the tax can still be levied, would it be compulsory on the Board of County Commissioners to make such levy?

(A.G.) (1) The Machinery Act as amended in 1943 provides for State-support of a 180 day school term at the request of any administrative unit. By inference no special tax could be levied solely to provide for the support of a ninth month. However, as there is no express provision in any statute against the levy of a local supplement voted by authority of section 14 of the School Machinery Act, and as the question submitted to voters of your administrative unit does not confine itself to the support of a ninth month of school but, in addition, provides for supplementing the State allotment where necessary, there would be nothing to prevent the tax levying authorities from levying the tax to supplement the funds from state or county allotments.

(2) You also ask whether it would be compulsory on the board to make such a levy. Section 15 of the School Machinery Act provides that the tax levying authorities may approve or disapprove such a levy, and if local tax authorities approve, the budget must be submitted to the State Board of Education which has the authority to approve or disapprove any object or item. You therefore can see that it is discretionary with the Board of County Commissioners whether any supplemental levy is made even if such levy is authorized by a proper election.

5. Discretionary power to approve or disapprove in whole or in part.

To Louis C. Allen. Inquiry: What is the duty of the Board of County Commissioners with reference to a school district special tax now that the State will provide for the ninth school month?

(A.G.) Whether or not the county can levy any part of the special tax will depend on whether or not the tax was voted solely for the purpose of providing for the ninth month school term. In the event

the tax was not so restricted, the Board of Commissioners would have the authority to levy such part of the tax as will be necessary to meet the budget for supplemental funds, which has to be approved by the Board of County Commissioners and the State Board of Education under Section 15 of the School Machinery Act. Section 15 vests in the tax levying authority the power to approve or disapprove the supplemental budget in whole or in part, which vests in the Board of County Commissioners this discretionary power as to the tax levy.

VI. MISCELLANEOUS MATTERS AFFECTING COUNTIES.

S. What Constitutes a Necessary Expense.

4. Service Men's center.

To Irvine B. Watkins. Inquiry: May a county contribute money to assist in paying maintenance and operating expenses of a Service Men's Center, which is operated for the benefit of members of the armed forces of the United States, or for defraying the expenses of an observation post in the county operated to detect and report the presence of airplanes? Would it make any difference if the money were contributed out of A.B.C. store profits.

(A.G.) I do not think that these expenditures are necessary expenses of the county nor that these projects are such governmental purposes as would authorize such expenditures. This would be true even though the money were paid from A.B.C. store profits, for section 3411 (85) of the Consolidated Statutes requires the entire net profits of these stores to be credited to the general fund of the county in which the store is operated, which would make A.B.C. store funds subject to the same laws applicable to other funds in the County General Fund.

VII. MISCELLANEOUS MATTERS AFFECTING CITIES.

J. What Constitutes Necessary Expenses.

2. Playgrounds.

To J. H. Amhurst. Inquiry: May a city purchase equipment to be installed upon the local school campuses for playgrounds to provide recreation for children of army families?

(A.G.) It was held in Atkins v. Durham, 210 N. C. 295 that the City of Durham could, without a vote of the people, issue bonds for the purpose of "acquiring lands or rights in lands for public parks and playgrounds, including any buildings thereon at the time of acquisition, and the development and improvement of such lands and other lands now owned by the City of Durham and dedicated to park purposes . . . and furnishing thereof with equipment and apparatus." The court further said: "What is a necessary expense for one locality may not be a necessary expense for another." However, it is my opinion that if the governing body of a city should, by proper resolution, find as a fact that the purchase of equipment to provide playgrounds on the local school campuses is necessary to preserve the health, safety and good morals of the inhabitants of the city, the court would uphold the expenditure of public funds for such a purpose without a vote of the people. But I am further of the opinion that the city may not expend funds to establish playgrounds or purchase equipment for the same for the benefit of the children for any particular group or class of people, but such equipment must be for the use and enjoyment of the children of all of the citizens of the city.

M. Sunday Closing Laws.

11. Sale of beer and wine.

To William Y. Bickett. Inquiry. May a municipality prohibit the sale of wine and beer from 12:00 o'clock noon Saturday until opening hours on Monday?

(A.G.) Since Ch. 339 of the Session Laws of 1943 regulates in a comprehensive manner the hours for the sale of wine and beer by prohibiting the sale between 11:30 P.M. and 7:00 A.M. each day and by expressly authorizing cities and counties to prohibit sales between 11:30 P.M. on Saturday and 7:00 A.M. on Monday, I am of the opinion that municipalities must confine the prohibition of the sales of wine and beer to the express authorization of the Act.

N. Police Powers.

20. Regulation of trades and businesses.

To W. Duncan Matthews. Inquiry: May a city issue a beer license to one who has not been a resident of North Carolina for one year?

(A.G.) Section 511, subsection (1½) of the Beverage Control Act provides that no state, county, or city wine or beer license shall be issued to "any person, firm or corporation who has not been a bona fide resident of North Carolina for one year."

In view of this express statutory provision, it is clear that a municipality has no authority to issue a beer license save to one who has been a bona fide resident of North Carolina for one year.

To H. B. Campbell. Inquiry: May a city ordinance, regulating drivers and operators of taxicabs under the authority of Chapter 639 of the Session Laws of 1943, provide that permits for drivers and operators may be refused, even if none of the specific grounds for refusal listed in Section 1 of that Act exist, "if the City Council shall find that the granting of a permit to an applicant would not be in the public interest, or would be detrimental to the public welfare, morals or safety?"

(A.G.) The Act referred to provides that the governing body of a city may require drivers' or operators' permits to be secured from the board before a vehicle may be operated as a taxicab in the city. It sets out specific grounds upon which permits may be refused. In view of the fact that the statute expressly enumerates the grounds upon which permits may be refused, I think it may reasonably be argued that it was intended that these should be the only grounds and that they may not be enlarged or extended by municipal corporations. In addition to this, I think the particular ground for refusal proposed by the question is open to serious constitutional objections, since it does not set up any definite standards by which the board must judge the applicants. Rather, it gives them unlimited discretion in deciding whether or not a permit shall be issued.

VIII. MATTERS AFFECTING PARTICULAR LOCAL OFFICIALS.

A. County Commissioners.

42. Sale of confiscated liquor.

To J. H. Whicker, Jr. Inquiry: May the Board of County Commissioners prorate the proceeds realized from the sale of confiscated tax-paid liquor between the capital outlay, the current expense, and the debt service school funds?

(A.G.) It is my opinion that the board of county commissioners would have no right, in preparing the budget for the fiscal year, to allocate the proceeds realized from the sale of confiscated tax-paid liquor to the various school funds. Liquor seized and sold under C. S. 3411(1) is to be considered a forfeiture within the meaning of Art IX, sec. 5 of the State Constitution. The apportionment of funds derived from such sales is governed by sec. 15 of the School Machinery Act of 1939, as amended.

B. Clerk of the Superior Court.

1. Fees.

To Ralph L. Roper. Inquiry: Where the county sells land for taxes under a tax judgment and the county becomes the purchaser, does the Clerk of the Superior Court get the regular fees that he would get if the property were sold to a private purchaser?

(A.G.) Section 1719(k) of the Machinery Act of 1939, as amended, provides that upon the collection of the costs in a tax foreclosure action, either upon the redemption or upon payment of the purchase price at a foreclosure sale, the fees allowed officers shall be paid to those entitled to receive same. There is no distinction made in the statute in the amount of fees to be taxed in cases where the county becomes the purchaser of the property and those in which private individuals become the purchasers of such property.

102. Commissions as receiver for orphans, minors and indigents.

To Joe M. Cox. Inquiry: To what commissions are Clerks of Superior Courts entitled as receivers of orphans, minors, and indigents?

(A.G.) If the Clerk is appointed under Section 2200 of the Consolidated Statutes, the amount of compensation is fixed by the Judge of the Superior Court.

M. Health and Welfare Officers.

28. County Board of Health.

To George F. Lucas. Inquiry: Is it the duty of a district health officer to make examination of prisoners as required by C. S. 7216 where no county physician is employed?

(A.G.) C. S. 7216 provides that it shall be the duty of every county or city physician or health officer or other physician having in charge the medical care of prisoners to make a thorough physical examination of every prisoner committed to the county or city jail, etc.

C. S. 7067 makes it the duty of the county board of health to elect either a county physician or a county health officer, and unless such officer or physician is elected within two calendar months of the time set for such appointment, the secretary of the State Board of Health shall appoint a registered physician of good standing in the county to the office of county physician.

It is my opinion that a county physician or health officer must be employed in each county in the State unless there is some provision made by the county in cooperation with other counties to have the duties of the county health officer or physician performed by means of the establishment of a county or district health unit. It is my opinion that a district health officer would not be required to make the examination provided for in C. S. 7216 unless such district health officer is required to perform the other duties of the county physician or health officer.

R. Municipal Court Clerks.

11. Rights with reference to oaths and seal.

To E. P. Covington. Inquiry: Has the clerk of an incorporated town or city the

right to administer oaths and use an official seal?

(A.G.) The powers and duties of city clerks are prescribed by C. S. sec. 2826, as amended by chapter 103 of the Public Laws of 1941. There is nothing in the cited statute which would authorize clerks of incorporated towns or cities to administer oaths or to have an official seal.

To D. H. Parsons. Inquiry: Would a practicing attorney be disqualified to practice law by accepting the office of clerk of a municipal court?

(A.G.) C. S. 198 prohibits the Clerk of the Superior Court from practicing law, but, so far as I have been able to ascertain, there is no statute which prohibits a clerk of any inferior court from engaging in the practice of law. The canons of ethics and rules of professional conduct of the North Carolina Bar, beginning at p. 592 of Volume 221 of the North Carolina Reports do not have any specific provision which deals with this situation. Manifestly, it would be improper for you to engage in the practice of law in a court for which you would be acting as clerk both as to new business and as to business pending at the time you accepted the appointment. As the engaging in the practice of law in matters totally disconnected with the court for which you would be named as clerk seems to involve a matter of legal ethics rather than any positive provision of a statute, I would suggest that you could get the desired advice by taking up the question with the committee of the North Carolina State Bar, which has been set up to consider matters of this kind.

S. Mayors.

4. Powers of the mayor when sitting as a court.

To J. F. Jordan. Inquiry: Has the mayor of a municipality the right to sentence a defendant to thirty days in jail and to assign such defendant to work the roads under the supervision of the State Highway and Public Works Commission?

(A.G.) Section 2634 of Michie's North Carolina Code of 1939 provides that the mayor of every city or incorporated town is constituted an inferior court and as such court within the corporate limits of his city or town has the jurisdiction of a J.P. in all criminal matters arising under the laws of the state and ordinances of the city or town. C. S. 3846 (23) provides that various judges and courts of this state may assign persons convicted of violating the criminal laws of the state to work upon the roads of the state under the control of the State Highway and Public Works Commission instead of on the county roads. By C. S. 3846 (25) no person may be committed to nor be received by the district camps if the term of imprisonment of such person is less than thirty days, with the proviso that in criminal actions in which a Justice of the Peace has final jurisdiction, no county is liable for the costs. It is my opinion that a mayor of a municipality is authorized *in proper cases* to sentence a defendant who has been convicted in his court to thirty days in the county jail to be assigned to work on the roads under the supervision and control of the State Highway and Public Works Commission.

6. Appointive powers.

To James A. Powers. Inquiry: May the Mayor of a town appoint special police officers, there being no provision in the town charter authorizing such appointments?

(A.G.) The only authority for the appointment of town police with which I am acquainted is Section 2630 of the Consolidated Statutes, which authorizes the board of commissioners to appoint a town constable and such other officers and agents as may be necessary to enforce the city ordinances and regulations, etc., and Section 2641, which says: "The Board of Commissioners may appoint a town watch or police to be regulated by such rules as the board may prescribe." I am of the opinion that the Mayor of a town does not have authority to appoint a police officer.

T. Justices of the Peace.

16. Powers and duties.

To W. C. Hammond. Inquiry: Is it the duty of a Justice of the Peace to make a report as required by section 4631 of Michie's North Carolina Code of 1939, Annotated, and also the report required by chapter 349 of the Public Laws of 1937?

(A.G.) The report required by Section 4631 of Michie's Code filed on or before Monday of every term contains a list of the names and offenses of all parties tried and finally disposed of by the Justice of the Peace together with the papers of each case on all criminal actions since the last term of the Superior Court for the information of the Clerk of the Superior Court, the Solicitor and the Grand Jury. Chapter 349 of the Public Laws of 1937, as amended, provides that each Justice of the Peace is required to assess and collect the additional costs for the officers' benefit fund and is required to transmit this cost and the name of each case in which such cost was taxed to the Clerk of the Superior Court. The fact that you are required to account for funds collected for the officers' benefit fund would not relieve you of the duty of making a report as required by Section 4631 of Michie's Code.

U. Notary Public.

3. Powers and duties.

To N. Henry Moore. Inquiry: May a Notary Public administer oaths of office to public officials?

(A.G.) The powers and duties of Notaries Public are prescribed by statute. C. S. Section 3175 provides: "Notaries public, in and out of the state, have power to take and certify the acknowledgment or proof of powers of attorney, mortgages, deeds, and other instruments of writing, to take depositions and to administer oaths and affirmations in matters incident or belonging to the duties of their office, and to take affidavits to be used before a court, judge or other officer, within the state, and have power to take the privy examination of femes covert." C. S. Sections 532 and 969 give additional authority to take affidavits. These statutes do not give Notaries Public any general authority to administer oaths and affirmations. I do not think that a Notary Public would be authorized to administer the oath of office to a public officer.

4. Validity of acknowledgments.

To Thomas H. Elder. Inquiry: Is an acknowledgment taken by a Notary Public legal when the fee is not paid?

(A.G.) I do not know of any statute which invalidates acknowledgments taken by a Notary Public when the fee is not paid. However, it occurs to me that a Notary Public would not have to render the service requested unless the fee is paid.

X. A.B.C. Boards and Employees.

4. Powers and duties.

To H. H. Wesley. Inquiry: Is it mandatory for County A.B.C. Boards to require the enforcement officers employed by it to give a bond in the sum of $1,000 for the faithful performance of their duties, as required of other peace officers?

(A.G.) I find no statutory requirement of bonds for peace officers except the sheriffs, constables, and certain peace officers mentioned in C. S. Section 323 (b), which section provides: "The State of North Carolina shall require of each member of the State Highway Patrol and of every other peace officer employed by the State, elected or appointed, to give bond with good security payable to the State of North Carolina in a sum not less than one thousand dollars and not more than twenty-five hundred dollars." There is serious doubt in my mind as to whether or not this section covers peace officers other than those employed direct by the State, and it may be successfully argued that the officers employed by the A.B.C. Boards do not come under that section. However, I am of the opinion that your Board has authority to require such officers to execute such bond, and I think it would be in keeping with public policy, and certainly the custom followed in most instances, to require these officers to give such bond.

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Public Bills

(Continued from page 9)

mercial bank, *public utilities* and *common carriers* having more than 500 employees in such town would have been required to pay wages in cash.

The *law of wills* would have been affected by a bill to lower the minimum age requirement of testators to 18. The bill, having members of the armed forces primarily in mind, would have validated wills heretofore made by such persons above the age of 18.

The *private examination* of married women could only be taken by a judge or clerk of the Superior Court as to deeds of separation, if H.B. 600 had passed.

Other bills that failed to get through included bills: to regulate aeronautics, to regulate property sales by receivers, to license a former dentist to practice his profession in the armed forces, to make burial associations settle in cash for benefits due members dying outside of continental United States, to regulate the matter of the custody of minors in divorce actions, to provide for the sale of property subject to remainders to raise funds to pay taxes, and to regulate the matter of making quick settlements in personal injury cases.

Mr. Howard W. Odum
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Capital, Surplus and Contingency Fund over $9,000,000.

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$128,000,000 paid in policy benefits since organization in 1907.

★

185,000 policyholders own $165,000,000 Jefferson Standard Life Insurance.

★

Our ability to make highly satisfactory investments, particularly over the past ten years, HAS ENABLED US TO PAY 5% INTEREST on funds held in trust for policyholders and beneficiaries. Jefferson Standard policy dollars ARE larger.

HOW LONG WILL $4000 LAST? . . . .

At 3% interest, $4,000 in life insurance will give your family an income of $100 per month for only 42 months.

BUY WAR BONDS & STAMPS

JOHN W. UMSTEAD, Jr., Manager Durham Branch Office

117 Corcoran Street Building, Durham — 136 East Franklin Street, Chapel Hill